

# CAMPBELL LAW GROUP, PLLC

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1 November 2019

Honorable Representative Jonathan C. Jordan  
The Honorable Senator Andy Wells  
Andy.Wells@ncleg.net  
Co-Chairs of the Joint Legislative Administrative  
Procedure Oversight Committee

RE: City of Mount Airy  
Response to the Requirements of G.S. 14-4.1

Dear Sirs:

Attached please find the response of the City of Mount Airy, North Carolina to the requirements set forth in G.S. §14-4.1. The attached document contains a list of all of the City of Mount Airy's ordinances that could create a criminal offense pursuant to G.S. 14-4 with brief descriptions of the prohibited conduct. The entire Code of Ordinances is available online through Municode. I have also attached a copy of the resolution duly adopted by the City maintaining the option to issue a criminal charge for a violation of any Mount Airy Ordinance.

If you have any questions or require additional information, please feel free to contact me.

Very truly yours,

CAMPBELL LAW GROUP, PLLC

Hugh B. Campbell, III  
City Attorney

cc: susan.sitze@ncleg.net



STATE OF NORTH CAROLINA  
CITY OF MOUNT AIRY

**CLERK'S CERTIFICATION**

I, Melissa N. Brame, City Clerk of the City of Mount Airy, North Carolina, do hereby certify that the following is a true and complete copy of the official record of the City of Mount Airy and was duly adopted by the Board of Commissioners of the City of Mount Airy on September 19, 2019.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the City of Mount Airy, North Carolina, this the 31<sup>st</sup> day of October, 2019.

  
Melissa N. Brame, City Clerk



**RESOLUTION REGARDING DE-CRIMINALIZATION OF CITY ORDINANCES**

WHEREAS, Session Law 2018-69 directs each unit of local government in the State of North Carolina to prepare "a list of applicable ordinances with a description of the conduct subject to criminal punishment in each ordinance" except for those ordinances that have been decriminalized or that regulate the operation or parking of motor vehicles, and send a copy of such list to the Joint Legislative Procedure Oversight Committee at the North Carolina General Assembly; and

WHEREAS, the City's Code or Ordinances (the "Code") was substantially updated by Municode and adopted November 17, 2005. Since then, the Code has been amended as needed to comport with changes in the law and to better provide for public health, safety and welfare; and

WHEREAS, the City Manager, in conjunction with the Chief of Police and several department heads, has conducted a review of the City's Code of Ordinances in response to the directive from the State. While this analysis may continue in the future, in particular if the state's criminal laws are re-codified to produce a streamlined, comprehensive, orderly and principled criminal code, at this time the staff recommendation is that no action be taken to decriminalize any ordinance that creates a criminal offense and that the current Code enforcement measures remain in place. The Mount Airy Police Department is encouraged but not required to assess civil penalties when possible and charge criminally when necessary to secure enforcement for the public health, safety and welfare of the citizens of Mount Airy.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT AIRY BOARD OF COMMISSIONERS MEETING IN OPEN SESSION THAT:

Section 1. The City Manager, in conjunction with the City Attorney and several department heads, shall create a list of applicable ordinances with a description of the conduct subject to criminal punishment in each ordinance and submit such list to the Joint Legislative Administrative Procedure Oversight Committee no later than November 1, 2019.

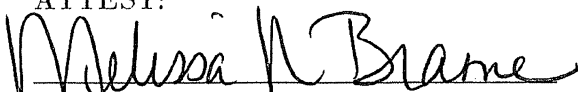
Section 2. This resolution shall become effective upon approval.

Approved and adopted this the 17<sup>th</sup> day of October, 2019.



David L. Rowe, Mayor

ATTEST:

  
Melissa N. Brame, City Clerk



Sec. 1-6. - General penalty for violation of Code; abatement of nuisances; continuing violations.

Unless otherwise provided herein, each violation of this Code shall constitute a misdemeanor, except as otherwise provided by statute, and violations of such provisions of this Code shall be punished by a fine not exceeding \$50.00 or by imprisonment for a term not exceeding 30 days, or both.

Violations of the following provisions of this Code shall constitute either a misdemeanor or, at the election of the City, shall subject the offender to a civil penalty upon the issuance of a citation for such violation as hereinafter provided. The civil penalty, if not paid to the Director of Finance within 15 days of the issuance of a citation, may be recovered by the City in a civil action in the nature of debt. Unless otherwise provided by a specific provision of this Code, such civil penalties shall be in the amount of \$50.00 for each violation and each day any single violation continues shall be a separate violation.

In addition to the civil penalties set out above, any provision of this Code or any other City ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the City for equitable relief that there is an adequate remedy at law.

In addition to the civil penalties set out above, any provision of this Code or any other City ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by general court of justice. When a violation of such a provision occurs, the City may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the City may seek an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Code or such ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the City may execute the order of abatement. The City shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

The provisions of this Code and any other City ordinances may be enforced by one, all or a combination of the remedies authorized and prescribed by this section.

Except as otherwise specifically provided, each day's continuing violation of any provision of this Code or any other City ordinance shall be a separate and distinct offense.

Any ordinances hereafter adopted by the Board of Commissioners, the violation of which shall incur a penalty, shall specify whether the enforcement shall be pursuant to the civil penalty or criminal penal provisions of this section.

Upon determination of a violation of any section of the Code, the penalty for which is a civil penalty, the City shall cause a warning citation to be issued to the violator setting out the nature of the violation, the section violated, the date of violation, an order to immediately cease the violation, or if the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time is stated in which the violation must be abated. The warning citation shall specify that a second citation shall incur a civil penalty, together with costs and attorney fees.

Upon failure of the violator to obey the warning citation a civil citation shall be issued by the appropriate official of the City and either served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the City or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of such citation. The citation shall direct the violator to appear before the Director of Finance of the City located in the Mount Airy Municipal Building, within 15 days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid, otherwise further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

If the violator fails to respond to a citation within 15 days of its issuance, and pay the penalty prescribed therein, the City may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law.

The provisions of the Code which shall subject the offender to either misdemeanor charges or to a civil penalty are as follows:

- (1) Chapter 4. Building; construction and related activities—All sections.
- (2) Chapter 6. Garbage, trash and weeds—All sections.
- (3) Chapter 14. Subdivisions—All sections.
- (4) Chapter 15, Article II. Vehicles declared to be junked, abandoned or public nuisances—All sections.
- (5) Appendix A. Zoning—All sections.

(Ord. of 10-15-87, Pt. 1)

**Charter reference**—Violations of ordinances punishable by fine of not exceeding \$50.00 or imprisonment for not more than 30 days, §§ 18, 39.

**State Law reference**—Violation of City ordinances declared a misdemeanor punishable by fine not exceeding \$50.00 or imprisonment not exceeding 30 days, G.S. § 14-4; enforcement of penalties for violation of municipal ordinances, G.S. § 160A-175.

## Chapter 3 - ANIMALS AND FOWL

## ARTICLE I. - IN GENERAL

## Sec. 3-1. - Bird sanctuary—Designated.

The area embraced within the corporate limits of the City and the lands owned and leased by the City is hereby designated as a bird sanctuary.

(Code 1963, § 3-6)

## Sec. 3-2. - Same—Trapping, hunting, etc., birds within area.

It shall be unlawful for any person to trap, hunt, shoot or otherwise kill, within the sanctuary established by section 3-1, any wild bird; provided, that it shall be lawful to trap Starlings or other similar birds or fowl when such birds or fowl are found to be congregating in such numbers in a particular locality that they constitute a nuisance or a menace to health or property.

(Code 1963, § 3-7)

**Cross reference—** Discharge of firearms prohibited, § 10-12.

## Sec. 3-3. - Same—Signs giving notice of provisions.

The bird clubs of the City are hereby granted permission to erect such artistic signs, giving notice of the regulations provided in sections 3-1 and 3-2, at such places and of such design as may be approved by the Planning Board.

(Code 1963, § 3-8)

## Sec. 3-4. - Keeping of livestock.

- (a) It shall be unlawful for any person with less than ten acres of land to keep, harbor or maintain swine, horses, mules, cattle, goats, sheep or other domestic animals classified as "livestock" within the corporate limits.
- (b) Except for the keeping of swine, this section does not apply to the owner or occupant of any parcel of land consisting of at least ten acres of land provided the land is contiguous, and providing the owner maintains a 200-foot buffer between the livestock and all adjoining property lines. Excluding the buffer area, not more than one animal classified as livestock may be maintained for each two acres of land inside the buffer area.
- (c) It shall be unlawful for any person to keep, harbor, or maintain any swine within the City.

(Code 1963, § 3-1; Res. of 4-5-94)

**Charter reference—** Authority to prohibit hog pens, § 38.

## Sec. 3-5. - Livestock at large.

It shall be unlawful for any person to permit any horse, cow, mule, sheep, goat or other livestock owned or controlled by such person to run at large within the City.

(Code 1963, § 3-2)

**Charter reference—** Authority to prohibit animals at large, § 38.

## Sec. 3-6. - Vicious or dangerous animal at large.

No person owning or having the custody of any vicious or dangerous dog or other animal shall allow such dog or other animal to run at large.

(Code 1963, § 3-3)

**State Law reference—** Female dogs in heat at large, G.S. § 67-2; allowing dogs to run at large at night, G.S. § 67-12; authority to regulate dangerous animals, G.S. § 160A-187; confinement or leashing of vicious animals, G.S. § 130A-200.

## Sec. 3-7. - Domestic fowl at large.

It shall be unlawful for the owner or person having custody of any turkeys, geese, ducks, chickens, pigeons or other domestic fowl to permit the same to run at large in the City.

(Code 1963, § 3-9)

## Sec. 3-8. - Pens and enclosures—Cattle, etc.; cleanliness.

Every stable or other place where cattle, horses or other animals are kept in the City shall be maintained at all times in a clean and healthful condition.

(Code 1963, §§ 3-4, 3-5)

**Cross reference—** Prohibition against keeping noisy animals, § 7-2(3).

## Sec. 3-9. - Same—Poultry; proximity to church or school.

No person shall open, maintain, operate or conduct, within 200 feet of any church or Sunday School or any public school building in the City any poultry yard or poultry house or carry on any poultry business, wherein is kept live chickens, ducks, geese, turkeys or other fowl for sale, barter or exchange, nor shall any person buy and sell live chickens, ducks, geese, turkeys or other fowl or unload the same or place the same within any building within 200 feet of any church, Sunday School, or public school. This section shall not prohibit retail or other dealers keeping on hand such fowl as are needed in their daily business, not exceeding, however, 20 at any one time.

(Code 1963, § 3-10)

**Cross reference—** For zoning generally, see Appendix A.

## Sec. 3-10. - Impoundment of animals.

It shall be the duty of the Chief of Police and all police officers to seize and impound any dog, horse, mule, cow, sheep, goat or other animal which is running at large in violation of this chapter or which, in any manner, is being kept in violation of this chapter. Any animal so impounded shall be put in a pen or lot kept for such purpose and the owner of such animal, if known, shall be notified of such impoundment. After five days' notice published in a daily newspaper published in the City and posted at the City Hall door, the Chief of Police shall in such officer's discretion, either destroy or sell the impounded animal at public auction to the highest bidder for cash, and pay the net proceeds of such sale into the City Treasury; provided, however, the owner of any impounded animal herein mentioned shall be entitled to redeem the same by proving such person's ownership and paying the sum of \$2.00 for each animal, plus \$1.00 for each day that the animal is kept.

(Code 1963, § 3-11)

**State Law reference—** Authority to establish animal shelter, G.S. § 160A-493.

## Sec. 3-11. - County's animal control ordinance; adopted by reference.

[The County's animal control ordinance is hereby adopted by reference to include all amendments and updates made in the future and is on file in the office of the City Clerk.] Pursuant to G.S. 153-A-122, the Animal Control Ordinance adopted by Surry County on April 20, 1998, [shall] be applicable within the City of Mount Airy municipal limits and enforced within the City of Mount Airy by proper officers and employees of the County of Surry according to the terms of the County's ordinance and pursuant to G.S. 153-A-123.

(Res. of 5-18-00; Ord. No. 2018-007, 9-7-17, eff. 1-1-18)

**Editor's note—** Ord. No. 2018-007, adopted Sept. 7, 2017, states that the ordinance "shall become effective beginning Jan. 1, 2018."

## Secs. 3-12—3-30. - Reserved.

## ARTICLE II. - ABATEMENT OF NUISANCES

## Sec. 3-31. - Definitions.

The following words, whenever they are used in this article, shall be deemed to have the following meanings:

*Animal Control Officer.* The person or persons employed by the County or City as its enforcement officer(s), either full time or designated temporarily.

*At large.* Any animal shall be deemed to be at large when it is not under restraint and is off the property of its owner or keeper.

*Owner.* Any person, groups of persons, or corporation that owns, keeps, or harbors a dog or dogs or other animals.

*Restraint.* An animal is under restraint within the meaning of this article if it is:

- (1) Confined in a fenced enclosure, building, or house and unable to escape.
- (2) Restricted by leash, chain, rope, or similar device under the control of the owner or keeper.
- (3) Confined within a vehicle and unable to escape.
- (4) Under voice command of the owner, or other persons and the animal is expected to obey the voice command.

(Ord. of 4-21-88, § 2)

**Cross reference—** Definitions; rules of construction, [§ 1-2](#).

**Sec. 3-32. - Conditions declared to constitute public nuisance.**

The existence of any of the following conditions within the corporate limits is hereby declared to be dangerous and prejudicial to the public health, welfare or safety and to constitute a public nuisance; any animal or groups of animals which:

- (1) Is found at large and off the property of its owner or keeper and not under physical restraint;
- (2) Damages, soils, or defiles person or property of anyone other than its owner;
- (3) Is vicious, or interferes with, molests, or attacks persons or other animals;
- (4) Causes fouling of the air by odors;
- (5) Causes unsanitary conditions of enclosures or surroundings;
- (6) By virtue of number or type is offensive or dangerous to the public health, safety, or welfare;
- (7) Excessively makes disturbing noises;
- (8) Is diseased and dangerous to the public health;
- (9) Chases, snaps at, harasses, or impedes pedestrians, bicyclists, or vehicles.

(Ord. of 4-21-88, § 1)

**Sec. 3-33. - Restraint required.**

Animals shall not be permitted to run at-large within the City of Mount Airy municipal limits.

(Ord. of 4-21-88, § 3; Ord. No. 2018-007, 9-7-17, eff. 1-1-18)

**Editor's note—** Ord. No. 2018-007, adopted Sept. 7, 2017, states that the ordinance "shall become effective beginning Jan. 1, 2018."

**Sec. 3-34. - Impoundment.**

Animals found running at large shall be taken up by either the Surry County Animal Control Officer or designated City official, and impounded in a properly designated facility.

(Ord. of 4-21-88, § 4)

**Sec. 3-35. - Investigation.**

The City Manager, upon notice from any person of the possible existence of any of the conditions described in [section 3-32](#), shall cause to be made by the appropriate County Health Department official, or designated City official, such investigations as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in [section 3-32](#).

(Ord. of 4-21-88, § 5)

**Sec. 3-36. - Right of Animal Control Officer to enter for inspections, etc.**

- (a) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this chapter, or other applicable law, or whenever the Animal Control Officer or designated City official has reasonable cause to believe that there exists in any building or upon the premises any violation of the provisions of this article or other applicable law, the Animal Control Officer or his authorized representative is hereby empowered to enter such property at any reasonable time and to inspect the same and perform any duty imposed upon the Animal Control Officer or designated City official by this article or other applicable law, but only if the consent of the occupant or owner of the property is freely given or a search warrant is obtained as hereinafter provided:
  - (1) If such property is occupied, he shall first present proper credentials to the occupant and request entry, explaining his reason therefor;
  - (2) If such property is unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge or control of the property, present proper credentials and request entry, explaining his reasons therefor; and
  - (3) If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the animal control officer or designated City official shall obtain a warrant to conduct a search or inspection of the property.
- (b) Notwithstanding any other provision of this article, the Animal Control Officer or designated City official shall have the authority to enter upon any property to enforce the provisions of this article, or other applicable law if a violation of such law is being committed in the presence of such officers. "Committed in the presence of such officers" shall not be construed to refer to any alleged violation of this article or other applicable law which is committed within any building or other enclosed structure unless such officer is also lawfully within such building or enclosed structure. The Police Department will assist the Surry County Animal Control Officer and the designated City official when necessary.

(Ord. of 4-21-88, § 6)

**Sec. 3-37. - Notice to owner; hearing.**

If it appears that such conditions exist, the City Manager shall cause to be delivered or mailed to the owner of the property upon which the conditions exist, or the owner of the animal, a notice stating the reasons why the conditions may constitute a violation and giving 48 hours from the time of notification to abate the violation. The owner or any parties in interest shall have the right to file an answer to the notice and request a hearing before the City Manager and to appear in person, or otherwise give evidence at the place and time fixed in the notice. The hearing will be held before the City Manager at a place therein fixed and such hearing is to be held in not less than ten, nor more than 30 days after the delivery or mailing of the notice. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in such hearings.

(Ord. of 4-21-88, § 7)

**Sec. 3-38. - Notification of public nuisance conditions; order to abate.**

If, after a hearing, a determination is made that such conditions, constituting a public nuisance, exist, the City Manager shall notify, in writing, the owner of the premises in question, or the owner of the animal, of the conditions constituting such public nuisance and shall order the prompt abatement thereof within 15 days from the receipt of such written notice.

(Ord. of 4-21-88, § 8)

**Sec. 3-39. - Failure to abate nuisance; removal by city.**

If the owner, having been ordered to abate or remove the condition constituting the nuisance within 15 days from receipt of the order, [fails to do so], the City Manager shall cause the condition to be removed or otherwise remedied by having employees of the City to go upon the premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the City Manager. Any person who has been ordered to abate a public nuisance may, within the time allowed by this article, request the City in writing to remove such condition, the cost of which shall be paid by the person making such request.

(Ord. of 4-21-88, § 9)

**Sec. 3-40. - Cost of abatement to be done by owner.**

- (a) *Statement of charges mailed to owner; when due and payable.* The actual cost incurred by the City and/or the County in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land or animal, and it shall be the duty of the Tax Collector to mail a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within 30 days from the receipt thereof.
- (b) *Unpaid charges to become lien; collected as unpaid taxes.* In the event charges for removal or abatement of a public nuisance are not paid within 30 days after receipt of a statement or charges as provided in subsection (a), such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

(Ord. of 4-21-88, §§ 11, 12)

**Sec. 3-41. - Impoundment and disposition.**

- (a) *When animal impounded.*

- (1) Domesticated animals, other than dogs, may be impounded when found at large.
- (2) A dog found at large, and off the premises of its owner or keeper, may be impounded immediately.
- (3) A certified Law Enforcement Officer may issue a written citation to the owner of the animal, citing the owner to court for violation of the provisions of this article.
- (b) *Periods of impoundment.*
  - (1) Domesticated animals, other than dogs, shall be impounded for at least five weekdays, before being destroyed or adopted by other persons. However, the owner may pay all funds due and claim the animal at any time before expiration of the five days. Such animals shall be impounded in a humane manner.
  - (2) Dogs shall be impounded for at least seven weekdays, before being destroyed or adopted by other persons. However, the owner may pay all funds due and claim the dog at any time prior to the seven weekdays. Such animal shall be impounded in a humane manner.
- (c) *Redemption.*
  - (1) The owner of an impounded animal shall be entitled to redeem such animal, except as provided in this article, upon payment of all redemption fees, and upon furnishing proof of ownership.
  - (2) Redemption fees, as provided in this section, shall be the actual cost incurred by the City and/or the County in enforcing this article.
- (d) *Disposition of unredeemed animals.* At the end of the minimum time periods indicated herein, unclaimed animals shall be deemed abandoned and shall be disposed of in a humane manner.
- (e) *Summary destruction of animals for humane reasons.* When, in the judgment of the Animal Control Warden, it is determined that any animal should be destroyed for humane reasons or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitations otherwise established herein.
- (f) *Confinement of animals with history of biting people.* All fierce, dangerous or vicious animals, including dogs that have a history of unlawfully biting humans, shall be confined by the owner within a building or secure enclosure or by the Animal Control Officer in the animal control shelter. Such animals shall not be released from confinement unless securely muzzled.
- (g) *Disposal of animal carcasses.* The Animal Control Officer or any other Police Officer, upon request of any person, or otherwise, may pick up and dispose of any animal carcass within the area of jurisdiction. When the owner of an animal, the carcass of which is disposed of by a public agency, can be identified, he shall be billed for the cost of the disposition.

(Ord. of 4-21-88, § 10)

#### Sec. 3-42. - Notice of violations.

- (a) *Generally.* In discharging their duties under this article, members of the Police Department are hereby empowered to issue citations to any person if there is reasonable cause to believe that he has violated any provisions of this article. The violation of any provision of this article shall also subject the violator to a civil penalty of \$25.00 per day. Citations so issued may be delivered in person to the violator by a Police Officer, or they may be mailed to the person so charged, if he cannot readily be found.
- (b) *Additional remedies; criminal action by City.* The procedure set forth in this article shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this article shall not prevent the City from proceeding in a criminal action against any persons, firm, or corporation violating the provisions of this article, as provided in G.S. § 14-4.

(Ord. of 4-21-88, §§ 13, 14)

### Chapter 4 - BUILDINGS; CONSTRUCTION AND RELATED ACTIVITIES

#### ARTICLE I. - IN GENERAL

##### Sec. 4-1. - Fire district established and described.

The following fire district is hereby established and defined: Beginning at the intersection of South Main and Rockford Streets at a point 153 feet south of the intersection of West Pine and South Main Streets; running thence with South Main approximately 140 feet; thence east approximately 453 feet to a point 150 feet north of the intersection of Renfro and Cherry Streets; thence north with the western right-of-way of Renfro Street to Independence Boulevard; thence west with the southern right-of-way of Independence to Willow Street; thence south with the eastern right-of-way of Willow to Virginia Street; thence west with the southern right-of-way of Virginia approximately 241 feet; thence south with the western property line of lot 4035 of tax map 5020.11 approximately 831.18 feet to the northwestern property corner of lot 1601; thence south with the western property line of lot 1601 approximately 300 feet; thence east with the northern right-of-way of Franklin Street to Willow Street; thence south with the eastern right-of-way of Willow Street to West Pine Street; thence east with the southern right-of-way of West Pine to the northwestern property corner of lot 2283 of tax map 5020.15; thence south with the western property line of lot 2283 approximately 181.06 feet; thence east with the northern right-of-way of Rockford to the point of beginning.

(Code 1963, § 4-1; Res. of 11-6-90; Ord. No. 2011-012, Pts. 1, 2, 1-20-11)

**Charter reference—** Authority of City to prescribe fire district and regulate construction therein, § 38.

##### Sec. 4-2. - Standards for day care facilities.

- (a) *Small group day care facilities (six through 15 children).* All small group day care homes keeping six through 15 unrelated children must meet the requirements of the State Building Code for school occupancy, except that specially designated rooms of extended or modified family residences may be used under the following conditions:
  - (1) The facility must be licensed by a state agency or under the jurisdiction of a City or County Building Inspector, Fire Prevention Inspector or Fire Chief, which or who has a responsibility to periodically reinspect the facility to make sure that the number of children being cared for is no more than the license calls for (or a maximum of 15 children whichever is less) and that the children use only the first floor or grade level rooms.
  - (2) The building must meet the City Residential Building Code requirements for dwellings and not be over 2,500 square feet in area on any one floor and be not over two stories in height.
  - (3) The first floor rooms, or grade level rooms with exit to outside at grade (located at grade or first floor level) may be used provided all walls and ceilings are covered with plaster, gypsum wall board or other noncombustible surfaces. All other rooms with a flame spread rating higher than 200 must be separated from the day care use rooms by one-hour rated walls and solid core doors or such combustible surfaces must be painted with fire retardant paint.
  - (4) Each room used for day care purposes must have access to two remotely located outside exits. Only one exit is required if an exterior exit door opens directly to the outside from each room to be used by the children. Access from the room door to the two remotely located outside exits must not have a dead-end distance of more than 20 feet measured from the room door used by the children to the point at which two separate outside exits can be reached. A dead-end occurs when a hallway is so arranged that a person therein is able to travel in only one direction in order to reach either exit.
  - (5) All stairs from the floor used by the children that lead to a floor above or below must be closed off with one-hour walls and solid core doors or equivalent.
  - (6) Fuel burning space heaters, fireplaces, floor furnaces and portable electric space heaters are prohibited unless provided with a protective screen attached securely to substantial supports. Unvented fuel burning heaters of all types are prohibited.
  - (7) All unoccupied spaces such as attics, basement workshops, furnace rooms, etc., must be provided with Underwriters' Laboratories labeled automatic fire detection devices.
  - (8) The space to be used must have at least ten percent of its floor area composed of windows with one-half of these windows openable (or mechanically ventilated), and if space is partially below grade it must have exit directly to the outside.
- (b) *Family day care homes (less than six children).* All family day care homes keeping less than six unrelated children must meet the requirements of the City Residential Building Code for dwelling and be limited to not more than 2,500 square feet in area per floor if of wood frame construction. Two-story dwellings may be used provided the children are kept on the first floor.
- (c) *Day care centers (more than 15 children).* All day care centers serving more than 15 children must meet the requirements of the State Building Code for Group C schools except that those keeping children less than three years old must meet Group D-2 Institutional Occupancy requirements. Wood frame construction is restricted to one story in height and not more than 2,500 square feet in area. All walls and ceilings must have a flame spread rating of less than 200. The furnace room must be separated from the rest of the building with one-hour rated walls and ceilings. An automatic sprinkler system or an automatic fire detection system and one-hour rated walls and ceilings throughout are required for Group D-2 Institutional Occupancy. (See pamphlet on nursing homes and boarding homes for other applicable requirements for D-2 Institutional Occupancy. Minimum door widths are three feet in lieu of 44 inches as required in this pamphlet for nursing homes, etc. Minimum corridor widths are 44 inches in lieu of widths specified in the nursing home pamphlet).

(Code 1963, § 4-14)

##### Sec. 4-3. - Reserved.

**Editor's note—** At the direction of the City § 4-3 has been deleted pursuant to a resolution adopted June 4, 1998. Former § 4-3 pertained to revised fee schedule; department of planning and development and derived from an ordinance adopted June 17, 1991.

##### Secs. 4-4—4-19. - Reserved.

#### ARTICLE II. - BUILDING CODE

##### Sec. 4-20. - State Building Code adopted.

The North Carolina State Building Code, Volume I, General Construction, 1978 edition, and subsequent editions, supplements or amendments as adopted and issued by the North Carolina Building Code Council and the North Carolina Department of Insurance shall be in effect as hereinafter modified in the City and shall be applicable in every building and every property.

(Code 1963, § 4-8)

**State Law reference—** As to State Building Code, see G.S. § 143-138.

##### Sec. 4-21. - State Residential Building Code adopted.

The North Carolina Residential Building Code, 1968 edition, together with the 1969 through 1979 amendments, and subsequent editions, supplements or amendments are hereby adopted as the Residential Building Code as adopted and issued by the North Carolina Building Code Council and the North Carolina Department of Insurance, including each section thereof, which is incorporated herein and made a part hereof by reference. It shall be known and cited as the Residential Building Code of the City, including each section thereof. Subsequent editions, supplements and amendments shall become immediately effective as adopted and issued by the North Carolina Building Code Council and the North Carolina Department of Insurance.

(Code 1963, § 4-9)

Sec. 4-22. - Building permits generally.

- (a) *Issuance does not authorize violation of article or prevent correction of defects.* The issuance or granting of a permit or approval of plans or specifications shall not be deemed or construed to be a permit for, or an approval of any violation of the provisions of this article. The issuance of a permit upon approval of plans or specifications shall not prevent the Building Inspector from thereafter requiring the correction of error in such plans or specifications, or from preventing building operations thereunder when in violation of this article or of any other ordinance of the City.
- (b) *Site inspection for drainage.* Prior to the issuance of a building permit, the Building Inspector shall make an on-the-premises inspection of the lot where the building is proposed and if drainage problems are involved, shall report such fact to the City Engineer for the City Manager's recommendations before the building permit is issued.

(Code 1963, § 4-10)

**Charter reference—** Authority to issue building permits, § 38.

Sec. 4-23. - Reserved.

**Editor's note—** A resolution adopted August 19, 1993, repealed all ordinances in conflict with an ordinance adopted June 17, 1991, included herein as § 4-3. At the editor's discretion, § 4-23, which pertained to inspection fees and derived from the Code of 1963, § 4-11 and an ordinance adopted June 18, 1987, has been repealed so as not to conflict with the resolution adopted August 19, 1993.

Sec. 4-24. - Obstructing streets and sidewalks in connection with construction work.

- (a) *Applicability of section.* Permits issued to any person for the use of streets or sidewalks for the purpose of collecting or laying building material or equipment thereon or permits to carry on construction work or wrecking near the streets or sidewalks shall be subject to the conditions set forth in this section.
- (b) *Insurance.* A policy of insurance shall be provided to the City to cover its liability in all cases where building construction work is being done or alterations or repairs are being made to a building or structure or the wrecking of the same near, over or in a street or sidewalk or where building materials or equipment are placed near, over or in the street or sidewalk by any person other than a public service corporation franchised by the City or a person so employed by the City under the direction of the Director of Public Works.
- (c) *Underestimation of cost.* If, in the opinion of the Building Inspector, the estimate of the construction cost of the building, alteration or repair, appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed cost to meet the approval of the Building Inspector.
- (d) *Permit fee.* In addition to the fee, an additional fee shall be charged for all street obstruction permits, the fees to be charged being as follows:
  - (1) For the first \$4,000.00, \$10.00.
  - (2) For the work costing in excess of \$4,000.00, an additional \$1.00 per \$1,000.00 for the remaining cost with a maximum fee of \$25.00.

(Code 1963, § 4-12)

**Cross reference—** Streets and sidewalk obstructions generally, § 13-1.

Sec. 4-25. - Demolition of unsafe buildings—Noncompliance with order of Building Inspector.

If the owner fails to remove or demolish a building in compliance with an order by the Building Inspector, the Building Inspector may cause such building to be removed and demolished; provided, however, the duties of the Building Inspector set forth in this section shall not be exercised until the Board of Commissioners shall have by ordinance ordered the Building Inspector to proceed to effectuate the provisions of section 4-26 with respect to the part of the property which the Building Inspector shall have found to be especially dangerous to life and which property shall be described in the ordinance.

(Code 1963, § 4-55)

**State Law reference—** Unsafe buildings condemned, G.S. § 160A-426.

Sec. 4-26. - Same—Demolition; costs, lien against property.

- (a) After the Board of Commissioners shall have by ordinance ordered the Building Inspector to demolish a particular building, the Building Inspector shall upon default of the owner to remove or demolish the subject building within the time specified in the ordinance, demolish or cause to be demolished the subject building and the cost for the demolition of such building shall be a lien on the real property upon which such cost was incurred.
- (b) The Building Inspector may demolish and remove such building with City personnel or may cause the demolition and removal of such buildings by private contracts; provided, however, the Building Inspector, should such inspector cause removal by private contractor, shall first secure competitive bids in the manner provided for by the general law and City ordinances governing contracts by local governmental units with private contractors.
- (c) The materials of such buildings shall be held by the Building Inspector and sold in the manner provided for by general law to recover the costs for the removal or demolition of such buildings, or the residual materials of such building shall be included in such contract thereby reducing overall costs, whether the building is dismantled by the Building Inspector with City personnel or by agents supervised by the Inspector or by private contractors, and any surplus shall be deposited by the Building Inspector in the office of the Clerk of Superior Court and shall be secured in such manner as may be directed by such court and disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

(Code 1963, § 4-56)

**State Law reference—** Enforcement to abate unsafe buildings, G.S. § 160A-432.

Sec. 4-27. - Remedies for violations of article.

The Building Inspector or any properly authorized representative acting in the Inspector's behalf is hereby empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this article. Any person having been served with an order to remove any such violation or to cease and desist from a continuing violation, who shall fail to comply with such order within ten days after service thereof, or who shall continue to violate any provision of this article in the respect named in such order, shall be guilty of a misdemeanor and shall be subject to punishment as provided in section 1-6. Any trial which might be conducted pursuant to the authority of this section shall not constitute former jeopardy of the defendant therein and if such defendant continues in the violation for which such trial was held, such continuing violation shall be a separate misdemeanor for which such defendant may again be tried. In addition to the foregoing remedies, the Building Inspector may maintain, in the name of the City, an action of injunction to restrain any violation of this article.

(Code 1963, § 4-13)

Sec. 4-28. - Reserved.

**Editor's note—** A resolution adopted August 19, 1993, repealed all ordinances in conflict with an ordinance adopted June 17, 1991, included herein as § 4-3. At the editor's discretion, § 4-28, which pertained to late fees and derived from an ordinance adopted June 18, 1987, has been repealed so as not to conflict with the resolution adopted August 19, 1993.

Sec. 4-29. - Reserved.

**Editor's note—** A resolution adopted August 19, 1993, repealed all ordinances in conflict with an ordinance adopted June 17, 1991, included herein as § 4-3. At the editor's discretion, § 4-29, which pertained to late fees and derived from an ordinance adopted June 18, 1987, has been repealed so as not to conflict with the resolution adopted August 19, 1993.

#### ARTICLE III. - PLUMBING CODE

Sec. 4-30. - Code adopted.

Volume II, Plumbing of the North Carolina State Building Code, 1980 edition and subsequent editions, supplements or amendments, as adopted and issued by the North Carolina Building Code Council and the North Carolina Department of Insurance, shall be in effect as hereinafter modified, in the City and shall be applicable in every building and every property.

(Code 1963, § 4-19)

Sec. 4-31. - Enforcing officer.

The requirements and provisions of this article shall be enforced by the Building Inspector.

(Code 1963, § 4-22)

Sec. 4-32. - Reserved.

**Editor's note—** Former § 4-32 was repealed by an ordinance adopted Aug. 4, 1987. Such former section pertained the use of CPVC and PB2110 pipe and fittings for water distribution and derived from Code 1963, § 4-21.



Sec. 4-33. - Reserved.

**Editor's note—** A resolution adopted August 19, 1993, repealed all ordinances in conflict with an ordinance adopted June 17, 1991, included herein as § 4-3. At the editor's discretion, § 4-33, which pertained to inspection fees and derived from an ordinance adopted June 18, 1987, has been repealed so as not to conflict with the resolution adopted August 19, 1993.

Secs. 4-34—4-39. - Reserved.

#### ARTICLE IV. - ELECTRICAL CODE

Sec. 4-40. - Short title; scope.

This article, together with and including the National Electrical Code, 1985 edition, and subsequent editions, supplements or amendments as approved by the National Fire Protection Association, the American Standards Association, and promulgated by the North Carolina Building Codes Council, shall be known and cited as the Electrical Code of the City, including each section thereof.

(Code 1963, § 4-29)

**Cross reference—** See also the National Fire Codes, adopted in § 5-20.

Sec. 4-41. - Local option amendments to the National Electrical Code.

- (a) All wiring on or in permanent buildings or structures located within a defined first (number one or primary) fire district shall utilize approved raceways or metal jacketed cables such as MI of Type MC Metal-Clad (Type A. C. not allowed) as permitted by the National Electrical Code.
- (b) All permanent buildings, wherever situated, which are required to have an emergency system power source by the State Building Code shall have the service entrance conductors enclosed in approved raceway; and in addition to the above, all portions of the required emergency lighting system for the entire building shall be wired in metal raceway, nonmetallic raceways encased in not less than two inches of concrete, mineral-insulated metal-sheathed cable, or Type MC cable as permitted by the State Electrical Code. The total area of any specific place of assembly shall include the area of balconies and the area of connection rooms with movable partitions.
- (c) Exceptions to rules (a) and (b): Sound equipment, communication circuits, class 2 and 3 remote control and signal circuits, and fire protection signalling circuits as permitted in the National Electrical Code.
- (d) Each individual gasoline pump, dispenser, lighting standard or other electrical device located where gasoline or other volatile flammable liquids or liquefied flammable gases are transferred to the fuel tank of any motor vehicle shall be supplied through an individual conduit outside of the hazardous areas, or consolidation within an approved junction box flush with the dispensing island surface.
- (e) Service equipment shall not be located in any attic, clothes closet, kitchen storage cabinet, bathroom, toilet room, coal or trash bin.
- (f) All panelboards which have spare pole spaces or space overcurrent devices and are set flush in masonry or finished walls shall be provided with at least one-inch approved raceway or other equivalent provision for future extension. Such raceway when required, shall be installed to the basement, crawl space, accessible ceiling space or attic, or to a junction box in ceiling or side wall at ceiling line.

(Code 1963, § 4-33)

Sec. 4-42. - Enforcement—Building Inspector.

- (a) The Building Inspector shall perform all duties of, and function as, the Electrical Inspector.
- (b) The Electrical Inspector shall make a monthly report to the Board of Commissioners of all permits issued, inspections made and fees collected.

(Code 1963, § 4-30)

Sec. 4-43. - Same—Right-of-entry and to discontinuing electric service.

The Electrical Inspector shall have the right during reasonable hours to enter any building in the discharge of such inspector's official duties, or for the purpose of making any inspection, reinspection or test of the installation of electric wiring, devices, appliances and equipment, contained therein, and shall have the authority to cut or disconnect any wire in cases of emergency where necessary for safety to life and property. The Electrical Inspector is hereby authorized to disconnect or order the discontinuance of electrical service to any electric wiring, devices, appliances or equipment found to be dangerous to life or property because it is defective or defectively installed until such wiring, devices, appliances and equipment and their installation have been made safe and approved by the Electrical Inspector.

(Code 1963, § 4-31)

Sec. 4-44. - Same—Punishment for violation.

Any person who shall violate any of the provisions of this article, or who shall fail to correct any defects within a reasonable specified time after having been notified in writing by the Electrical Inspector, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-6.

(Code 1963, § 4-36)

Sec. 4-45. - Same—Article does not affect liability for damages.

This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electric wiring, devices, appliances or equipment for damages to persons or property caused by any defect therein, nor shall the City be held as assuming any such liability by reason of the inspection authorized herein or the certificate of approval issued as herein provided.

(Code 1963, § 4-35)

Sec. 4-46. - Permits and inspections.

- (a) **Required; exceptions.** No electric wiring, devices, appliances or equipment shall be installed within or on any building, structure or premises, nor shall any alteration or addition be made in any such existing wiring, devices, appliances or equipment without securing a permit therefore and having an inspection thereof made by the Electrical Inspector. No permit shall be required, however, for minor repair work, such as the replacement of lamps, or the connection of portable devices to suitable receptacles which have been permanently installed and such other work as may be determined from time to time by the Electrical Inspector, and no permit shall be required for the installation, alteration or repair of electrical wiring, devices, appliances and equipment installed by or for an electrical public service corporation for the use of such corporation in the generation, transmission, distribution or metering of electrical energy, or for the use of such corporation in the operation of signals or the transmission of intelligence.
- (b) **To whom permit issued.** No permit, except an annual permit or personal permit provided for in subsections (c) and (d) for the installation or alteration of any electric wiring, devices, appliances or equipment shall be issued to any person unless such person is the holder of an electrical contractor's license issued by the State Board of Examiners of Electrical Contractors.
- (c) **Personal permits.** Notwithstanding the provisions of subsection (b), any person may be permitted to perform electrical work upon such person's own property, except property intended for rent, sale or gift provided such person first makes application for and obtains a permit from the Electrical Inspector to do the specific work contemplated and provided the applicant satisfies the Electrical Inspector that applicant is competent to perform the work for which a permit is requested in a manner which will meet all statutory and ordinance requirements. If so satisfied, the Electrical Inspector shall issue a permit to the applicant personally to perform the particular work for which application was made. Such permit shall extend to the applicant only and shall not authorize the applicant to employ the services of any other person to assist unless such other person is a qualified contractor. The permit granted the applicant shall automatically expire upon completion of the work for which application was made and the permit issued. All work done under such permit shall be subject to regular electrical inspection requirements and fees and shall be required to satisfy all statutory and ordinance requirements and regulations applicable to such work.
- (d) **Annual permits.** In lieu of an individual permit for each installation or alteration, an annual permit shall, upon application therefor, and payment of a fee of \$10.00, be issued to any person employing one or more electricians for the installation and maintenance of electric wiring, devices, appliances and equipment on premises owned or occupied by the applicant except property intended for rent, sale, or gift. The application for such annual permit shall be made in writing to the Electrical Inspector and shall contain a description of the premises within which work is to be done under permit. The person to whom an annual permit is issued shall keep a record of all pertinent electric wiring, devices, appliances and equipment installed under the permit, and the Electrical Inspector shall have access to such record. Each annual permit shall expire on December 31 of the year in which it was issued. At regular periods, the Electrical Inspector shall visit all premises where work may be done under annual permits and shall inspect all electric wiring, devices, appliances and equipment installed under such a permit since the date of such inspector's last previous inspection, and shall issue a certificate of approval for such work as is found to be in conformity with the provisions of this article, after the fee required has been paid. Upon inspection, if the installation is not found to be fully in conformity with the provisions of this article, the Electrical Inspector shall at once forward to the permit holder a written notice stating the defects which have been found.
- (e) **Inspection prior to concealment.** When any part of a wiring installation is to be hidden from view by the permanent placement of parts of the building, the person installing the wiring shall notify the Electrical Inspector and such parts of the wiring installation shall not be concealed until they have been inspected and approved by the Electrical Inspector, or until 24 hours, exclusive of Saturdays, Sundays and holidays, have elapsed from the time of such notification; provided, that, on large installations, where the concealment of parts of the wiring proceeds continuously, the person installing the wiring shall give the Electrical Inspector due notice and inspections shall be made periodically during the progress of the work.
- (f) **Inspection upon completion of installation.** Upon completion of any installation for which a permit and inspection is required, it shall be the duty of the person installing same to notify the Electrical Inspector, who shall inspect the installation within 24 hours of the time such notice is given or as soon thereafter as practicable.
- (g) **Certificates of approval.** Where the Electrical Inspector finds the installation to be in conformity with the provisions of the public safety laws of the state governing electrical wiring installations and materials and of this article, such inspector shall issue a certificate of approval in duplicate, one for the utility furnishing the electrical service and one for the property owner. When a certificate of approval is issued authorizing the connection and use of temporary work, such certificate shall be issued to expire at a time to be stated therein and shall be revocable by the Electrical Inspector for cause. A preliminary certificate of approval may be issued authorizing the connection and use of certain specific portions of an incomplete installation. Such certificate shall be revocable at the discretion of the Electrical Inspector.
- (h) **Fee for extra inspections.** Additional inspections or inspection trips made by any Electrical Inspector or the Inspector's assistant, made necessary through the failure of any Electrical Contractor or electrician in charge of work to specify location of work, or failure to install wiring or apparatus in proper manner, or to otherwise create conditions making such additional inspections or trips necessary, are hereby designated "extra electrical inspections." Nothing herein shall be construed to require extra fees for the several inspections made necessary in the regular order of electrical construction work.

(Code 1963, § 4-32; Ord. of 6-18-87; Res. of 8-19-93)

**Editor's note—**A resolution adopted August 19, 1993, repealed all ordinances in conflict with an ordinance adopted June 17, 1991, included herein as § 4-3. At the editor's discretion, former § 4-46(h), which pertained to fees generally, has been repealed and former § 4-46(i) renumbered § 4-46(h), so as not to conflict with the resolution adopted August 19, 1993. Nothing set out in § 4-46 shall supersede those provisions set out in § 4-3.

Secs. 4-47—4-49. - Reserved.

#### ARTICLE V. - MINIMUM HOUSING CODE

Sec. 4-50. - Finding; purpose.

Pursuant to G.S. § 160A-441, it is hereby declared that there exists in the City of Mount Airy dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents, and other calamities; lack of ventilation, light and sanitary facilities; and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the City.

In order to protect the health, safety and welfare of the residents of the City as authorized by Part 6 of Article 19, Chapter 160A of the General Statutes, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160A-444.

(Ord. of 12-4-97, § 1)

Sec. 4-51. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

*Basement* shall mean a portion of a dwelling which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

*Cellar* shall mean a portion of a dwelling which is located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

*Certificate of occupancy* shall mean a certificate which is issued once a dwelling has been certified to meet the requirements of the housing code. A temporary certificate of occupancy may be issued for the temporary or partial occupancy of a dwelling unit for a specified time period.

*Deteriorated* shall mean that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of 50 percent of its value, as determined by finding of the Inspector.

*Dilapidated* shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article except at a cost in excess of 50 percent of its value, as determined by finding of the Inspector.

*Dwelling* shall mean any building, structure, or part thereof which is wholly or partly used or intended to be used for living, sleeping or habitation by human occupants, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. Temporary housing, as hereinafter defined, shall not be regarded as a dwelling. The term shall include within its meaning the terms rooming house and rooming unit, as hereinafter defined.

*Dwelling unit* shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

*Extermination* shall mean the control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping; or by any other recognized and legal pest elimination methods approved by the Inspector.

*Garbage* shall mean the organic waste resulting from the handling, preparation, cooking and consumption of food.

*Gender* shall mean words having a masculine gender shall include the feminine and neuter genders.

*Habitable room* shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

*Infestation* shall mean the presence, within or around a dwelling, of any insects, rodents, or other pests in such number as to constitute a menace to the health, safety, or welfare of the occupants or the public.

*Inspector* shall mean the Codes Inspector of the City or any authorized agent of the City.

*Insulation* shall mean a material which has been manufactured to meet the specified R-value criteria when installed to the manufacturer's specifications.

*Junk* shall mean any item, including but not limited to, deteriorated or used furniture, appliances, machinery, equipment, building materials, automobile parts, tires, or other items which are either in a wholly or partially deteriorated, rusted, wrecked, junked, dismantled, or inoperative condition.

*Littered condition* shall mean all discarded manmade materials, including but not limited to, junk, waste materials, building materials, trash, garbage, and other refuse scattered, cast, placed or deposited throughout a yard or yards, so as to appear as a haphazard accumulation of litter.

*Multiple dwelling* shall mean any dwelling containing more than two dwelling units.

*Occupant* shall mean any person over one year of age, living, sleeping, cooking, or eating in or having actual possession of a dwelling, dwelling unit or rooming unit.

*Operator* shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

*Outdoor storage* shall mean the accumulation of any material which is not enclosed within the dwelling unit or approved storage building.

*Owner* shall mean any person who alone, jointly, or severally with others:

- (1) Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof; or
- (2) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

*Party or parties in interest* shall mean all persons who have interests of record in a dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.

*Person* shall mean any individual, corporation, firm, partnership, association, organization or other legal entity.

*Plumbing* shall mean and include all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

*Public authority* shall mean any officer who is in charge of any department or branch of the government of the City of Mount Airy or of Surry County or the State of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the City.

*Rooming house* shall mean any dwelling, or that part of the dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or brother of the owner or operator.

*Rooming unit* shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

*Rubbish* shall mean organic or non-organic waste materials. The term shall include, for example but not by way of limitation, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass and dust, automobile parts, abandoned vehicles, non-operable vehicles, refrigerators, stoves.

*Supplied* shall mean paid for, furnished, or provided by, or under the control of, the owner or operator.

*Temporary housing* shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

*Unfit for human habitation* shall mean that conditions exist in a dwelling, dwelling unit, rooming house or rooming unit which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this article. *Words having certain meaning.* Whenever the words "dwelling, dwelling unit, rooming houses, rooming unit, premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof".

(Ord. of 12-4-97, § 2)

Sec. 4-52. - Minimum standards of fitness for dwellings and dwelling units.

- (a) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 4-53 through 4-58 herein.
- (b) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 4-53 through 4-58 herein.

(Ord. of 12-4-97, § 3)

## Sec. 4-53. - Minimum standards for structural condition.

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

- (1) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.
- (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- (3) Foundations, foundation walls, piers or other foundation supports.
- (4) Steps, stairs, landings, porches, railings or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.
- (5) Adequate facilities for egress in case of fire or panic shall be provided.
- (6) Interior walls and ceilings of all rooms, closets, and hallways shall be finished with suitable materials which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
- (7) The roof, flashings, guttering, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to weather and watertight.
- (8) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.
- (9) There shall be no use of the ground for floors, or wood floors on the ground.
- (10) Insulation shall be installed in the attic or space immediately above each habitable room. Such insulation shall have a minimum R-19 value.

(Ord. of 12-4-97, § 4)

## Sec. 4-54. - Minimum standards for basic plumbing, heating and electrical equipment and facilities.

(a) *Plumbing system.*

- (1) Each dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.
- (2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied to a potable water supply.
- (3) All plumbing fixtures shall meet the standards of the state plumbing code and shall be maintained in a state of good repair and in good working order.
- (4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(b) *Heating system.* Every dwelling and dwelling unit shall have facilities providing heat in accordance with the following:

- (1) *Central and electric heating systems.* Every central, solar or electric heating system shall be of sufficient City to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70 degrees Fahrenheit measured at a point three feet above the floor during ordinary winter conditions.
- (2) *Other heating facilities.* Where a central, solar, or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, gas vents or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 70 degrees Fahrenheit measured three feet above the floor during ordinary winter conditions.

(c) *Electrical system.*

- (1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the state electrical code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.
- (2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- (3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the state electrical code.
- (4) Every dwelling shall have a smoke detector connected to its electrical system. Dwellings with multiple stories shall have detectors installed on each level that has room(s) for sleeping. Such devices shall be installed to meet the N.C. Building Code requirements for smoke detectors (The Inspector may allow the use of battery powered devices until January 1, 2000). Battery-operated smoke detectors are permissible in existing dwellings.

(Ord. of 12-4-97, § 5; Ord. No. 03-041, Pt. 1)

## Sec. 4-55. - Minimum standards for ventilation.

- (a) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light-obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room the total window area of such skylight shall equal at least 15 percent of the total floor area of such room.
- (b) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size as required, or shall have other approved, equivalent ventilation.
- (c) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(Ord. of 12-4-97, § 6)

## Sec. 4-56. - Minimum standards for space, use and location.

- (a) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the state residential building code. In no case shall any dwelling occupancy exceed one person for each 150 square feet for the first 900 square feet and one person for each 200 square feet of gross building area over 900 square feet. Gross building area is measured from the exterior walls of the dwelling. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.
- (b) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.
- (c) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 4½ feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.
- (d) *Cellar.* No cellar shall be used for living purposes.
- (e) *Basements.* No basement shall be used for living purposes unless:
  - (1) The floor and walls are substantially watertight;
  - (2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms;
  - (3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or access-way.

(Ord. of 12-4-97, § 7)

## Sec. 4-57. - Minimum standards for safe and sanitary maintenance.

- (a) *Exterior foundation walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weather-tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
- (b) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.
- (c) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weather-tight, watertight and rodent proof and shall be kept in sound working condition and good repair.
- (d) *Stairs, porches, and appurtenances.* Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in good sound condition and good repair.
- (e) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.
- (f) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- (g) *Drainage.* Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.
- (h) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.
- (i) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the state residential building code.

(Ord. of 12-4-97, § 8)

## Sec. 4-58. - Minimum standards for control of insects, rodents, and infestation.

- (a) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens. If a central HVAC system is provided, then screens and storm doors are not required.
- (b) *Rodent control.* When danger of infestation is apparent to the Building Inspector, every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.

- (c) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.
- (d) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by the City ordinances, and the owner, operator, or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.
- (e) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an approved outside garbage can as required by the City of Mount Airy ordinances.

(Ord. of 12-4-97, § 9)

Sec. 4-59. - Minimum standards applicable to rooming houses; exceptions.

All of the provisions of this article, and all of the minimum standards and requirements of this article, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy and any rooming unit in any rooming house, except as provided in the following subsections.

- (1) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.
- (2) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.
- (3) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house. He shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.
- (4) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (1) above shall be located within the rooming house and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from the habitable rooms, are accessible from a common hall and are accessible without going outside the rooming house or through any other room therein.

(Ord. of 12-4-97, § 10)

Sec. 4-60. - Responsibility of owners and occupants.

- (a) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- (b) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
- (c) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.
- (d) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.
- (e) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

(Note: The respective responsibilities of landlords and tenants under rental agreements for dwelling units are further enumerated in State Law, G.S. Chapter 42, Article 5.)

(Ord. of 12-4-97, § 11)

Sec. 4-61. - Community appearance standards.

The purpose of these standards is to promote the general welfare by enhancing shared aesthetic values and general visual appearance of the community. These standards also help maintain attractive residential neighborhoods and other areas of the community through the prevention of discordant, unsightly and other objectionable surroundings that offend sensibilities and debase the visual features of the community and neighborhoods. These standards also produce corollary benefits by protecting property values, enhancing a sense of general well being, promoting tourism revenues, protecting health and safety, preserving the character and integrity of older neighborhoods and the community as a whole, and promoting the comfort, happiness, emotional stability and societal harmony of residents and citizens.

(Ord. of 12-4-97, § 12)

Sec. 4-62. - Minimum standards of maintenance and cleanliness for residential property.

- (a) The owner and/or occupant of any dwelling unit shall exercise reasonable diligence at all times to keep exterior premises clean of glass, bottles, waste paper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials intentionally or unintentionally scattered, discarded, thrown, or haphazardly left on such premises, and to prevent same from drifting or blowing to adjoining premises by removing such waste or ensuring that same is placed in approved garbage or refuse containers for collection by the City.
- (b) Storage of junk or other items on residential lots so as to create a littered condition shall not be permitted, except in conformity with the standards for storage in this section.

(Ord. of 12-4-97, § 13)

Sec. 4-63. - Minimum standards for storage on residential property.

- (a) The primary use of the property shall remain residential and not storage.
- (b) No junk or other deteriorated items shall be stored in building openings of residential dwelling units, unless such openings are completely screened from such public view with clean covers or other material kept in good repair.
- (c) Reserved.
- (d) Firewood shall not be stored in the front yards of lots containing dwelling units. Storage of fire wood shall be permitted only in the rear yard and, if not visible from a public road, the side yard, provided such storage shall not exceed 100 square feet in area nor six feet in height. Such storage shall be centralized in one location except for small quantities of less than ten square feet required for immediate use.
- (e) All other items continuously stored in outside yards of lots containing residential dwelling units for a period exceeding 30 days, excluding automobiles, bicycles, children play apparatus, yard maintenance equipment, and other functional-type or decorative-type outdoor items, shall be primarily stored within one centralized area in the rear yard only. Such area shall not exceed 400 square feet in total size. The area shall be screened from public view from any abutting residential lot or public street by landscaping or a solid fence or other method to obscure. Such stored items shall not exceed the height of said fence, landscape screen or obscurity, and in no case shall be greater than six feet (in height) above the ground. Where all items are not primarily stored in a centralized location, the total area of all stored items, including the centralized storage area shall not exceed 400 square feet.

(Ord. of 12-4-97, § 14; Ord. No. 03-041, Pts. 1—3, 6-19-03)

Sec. 4-64. - Minimum standards for posting numbers on structures.

The following code is adopted to further health, safety, and welfare of the citizens of Mount Airy by affording EMS, Police, Fire, and other entities with visible numbers to assist in provision of services.

- (1) *Time constraints.* Existing structures shall be posted within 60 days after notification of the assignment or change of structure number. Structures under construction at the time of assignment shall be posted within 90 days after notification and assignment of numbers. All assigned numbers shall be posted in compliance with the provisions herein. It shall be the responsibility of the owner of any structure to obtain and post structure numbers in accordance with the provisions of this section.
- (2) *Specifications for numbers.* All structure numbers shall be constructed of a durable material and shall contrast in color with the color scheme of such structure. Numbers mounted on glass shall contrast with the background and be clearly visible.  
Residential structure or unit numbers shall be a minimum size of four inches in height. All structure numbers other than residential shall be a minimum of four inches in height. A number larger than the minimum may be required in areas where the minimum size provides inadequate identification.
- (3) *Posting locations.* All numerical identifications must be clearly visible and easily identifiable without obstruction of view.  
Dwellings or businesses located more than 100 feet from the roadway and/or not visible shall be required to post reflective numbers at the entrance and driveway and shall be located in close proximity to the front door of the entranceway.  
Posting height shall be a minimum of five feet when attached to a dwelling in close proximity to the entranceway.  
The height of the post shall be three feet for all entrances of private drives requiring numerical posting detached from the dwelling or structure. A mailbox placed at the entranceway may also be accepted if placed at the entranceway to the property.
- (4) *Maintenance of structure numbers.* All posted numbers assigned shall be maintained at all times in compliance with the provisions of this article. Structure numbers and unit designators viewed from the roadway shall not be obstructed from view.
- (5) *Assignment of structure numbers.* Structure numbers, both private and business, shall be assigned by the City through the Planning Department.

(Ord. of 3-4-99, Pt. 1)

Editor's note— Ord. of 3-4-99, Pt. 1, added a new § 4-64, in effect renumbering existing §§ 4-64—4-76 as §§ 4-65—4-77. The historical notations have been retained with the amended provisions for reference purposes.

## Sec. 4-65. - Minimum standards for landscaping and fencing.

- (a) All landscape features and elements, including grass and shrubs, shall be maintained in a safe and attractive manner. Trees or shrubs that interfere with travel on public sidewalks or streets or obstruct the sight distance requirements at driveways or street corners shall be kept trimmed to prevent such interference. Landscaping and fencing will be enforced by Landscaping and Cemetery Division of Public Services.
- (b) All fences, retaining walls or similar landscape features shall be firmly anchored to the ground and maintained in good structural condition and appearance. Wooden or other features subject to deterioration or weathering shall be properly maintained to retard deterioration and provide protection from the weather. Deteriorated features shall be replaced or repaired, or if not otherwise required by this Code, may be completely removed.

(Ord. of 12-4-97, § 15; Ord. No. 03-041, Pts. 5, 6, 6-19-03; Ord. of 3-4-99, Pt. 1)

Editor's note— Formerly § 4-64. See the editor's note to § 4-64.

## Sec. 4-66. - Other standards for residential property.

- (a) Parking areas may be used only for parking in relation to the principal use of the lot and not for any type of loading, sales, repair work, dismantling or servicing.
- (b) Parking in residential areas shall be limited to driveways. Parking areas are permitted only to the side and rear of buildings. Parking areas shall not be allowed in the front yard. Existing multifamily developments with four or more units are exempted from this limitation.
- (c) Boats and trailers shall not be parked or stored in the front yards of dwelling units.
- (d) Signs shall not be painted directly onto exterior walls of residential structures.
- (e) Furniture used on porches and outside in yard areas shall be constructed of materials suitable and designed for outdoor use. Upholstered furniture designed and constructed for indoor use shall not be permitted in outside yards or on porches.

(Ord. of 12-4-97, § 16; Ord. of 3-4-99, Pt. 1)

Editor's note— Formerly § 4-65. See the editor's note to § 4-64.

## Sec. 4-67. - Powers and duties of Inspector.

The Inspector is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. The Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article. The Inspector or designee shall have the following powers and duties:

- (1) To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the City of Mount Airy, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this article with respect to the repair, closing or demolition of such dwellings and dwelling units.
- (2) Housing inspections will be on a request and/or complaint basis.
- (3) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated.
- (4) To keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed.
- (5) To administer oaths and affirmations, examine witnesses and receive evidence.
- (6) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with section 4-65 above and state law, and shall be made in such manner as cause the least possible inconvenience to the persons in possession.
- (7) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to assist in carrying out the purposes of this article, and to delegate any of his functions and powers to such officers, agents and employees.
- (8) To perform such other duties as may be prescribed herein or by the governing body of the City of Mount Airy.

(Ord. of 12-4-97, § 17; Ord. of 3-4-99, Pt. 1; Ord. No. 03-041, Pt. 7, 6-19-03)

Editor's note— Formerly § 4-66. See the editor's note to § 4-64.

## Sec. 4-68. - Inspections: duty of owners and occupants.

- (a) For the purpose of making inspections, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house or rooming unit or the person in charge thereof shall give the Inspector free access to such dwelling and its premises at all reasonable times for the purpose of such inspection, examination and survey.
  - (b) Every occupant of a dwelling, dwelling unit, rooming house, or rooming unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.
- (Note: When permission to inspect a dwelling or its premises is denied, the Inspector must obtain a warrant to inspect. G.S. § 15-27.2 provides for the issuance of warrants for the conduct of inspections authorized by law. The N.C. Court of Appeals, in *In Re Dwelling*, 24 N.C. App. 17 (1974), has held that the consent of the tenant-occupant who was in actual possession and control of the premises was sufficient to authorize an inspection without a warrant, notwithstanding the fact that the owner had objected to the warrantless search. When faced with a situation where permission to inspect is denied, inspectors are advised to seek the advice of the City Attorney.)

(Ord. of 12-4-97, § 18; Ord. of 3-4-99, Pt. 1)

Editor's note— Formerly § 4-67. See the editor's note to § 4-64.

## Sec. 4-69. - Procedure for enforcement.

- (a) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Inspector by a Public Authority or by at least five residents of the City charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection that any dwelling or dwelling unit is unfit for human habitation he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner or any parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence. Formal rules of evidence shall not be controlling in hearings before the Inspector.

- (b) *Procedure after hearing.* After such notice and hearing, the Inspector shall state in writing his determination whether the dwelling or dwelling unit is unfit for human habitation, and if so, whether it is deteriorated or dilapidated.

If the Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

If the Inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article, or else to vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

- (c) *Failure to comply with order.* Violation of any provision of the code shall subject the offender to a civil penalty as specifically set out in the section 1-6 of this Code.

- (1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter, or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the Inspector shall submit to the Board of Commissioners at its next regular meeting a resolution directing the City Attorney to petition the Superior Court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

- (2) *In rem remedy.* After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding subsection (1), the Inspector shall submit to the governing body of the City of Mount Airy an ordinance ordering the Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved vacated, closed, removed or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to place a placard on such dwelling as provided by G.S. § 160A-443 and section 4-65 herein.

- (d) *Appeals from order of inspector.* An appeal from any decision or any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the Zoning Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and subsection (e) below.

The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

- (e) *Petition to superior court by owner.* Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).

(Ord. of 12-4-97, § 19; Ord. of 3-4-99, Pt. 1)

Editor's note— Formerly § 4-68. See the editor's note to § 4-64.

## Sec. 4-70. - Methods of service of complaints and orders.

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered mail. If the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same at least once no later than the time at which personal service would be required under the provisions of this article in a newspaper having general circulation in the City of Mount Airy. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Ord. of 12-4-97, § 20; Ord. of 3-4-99, Pt. 1)

**Editor's note—** Formerly § 4-69. See the editor's note to § 4-64.

## Sec. 4-71. - In rem action by Inspector; placarding.

After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this article, and upon adoption by the Board of Commissioners of the City of Mount Airy of an ordinance authorizing and directing him to do so, as provided by G.S. § 160A-443(5) and subsection 4-66(c) herein, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Board of Commissioners, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful". Occupation of a building so posted shall constitute a misdemeanor.

Each ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

(Ord. of 12-4-97, § 21; Ord. of 3-4-99, Pt. 1)

**Editor's note—** Formerly § 4-70. See the editor's note to § 4-64.

## Sec. 4-72. - Costs, a lien on premises.

As provided by G.S. § 160A-446 (6), the cost of any repairs, alterations, or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to section 4-67 shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, having priority, and be collected in the same manner as the lien for special assessments established by Article 10, Chapter 160A of the General Statutes.

(Ord. of 12-4-97, § 22; Ord. of 3-4-99, Pt. 1)

**Editor's note—** Formerly § 4-71. See the editor's note to § 4-64.

## Sec. 4-73. - Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the City of Mount Airy to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process as authorized by G.S. § 14-4 and section 4-71 above, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(Ord. of 12-4-97, § 23; Ord. of 3-4-99, Pt. 1)

**Editor's note—** Formerly § 4-72. See the editor's note to § 4-64.

## Sec. 4-74. - Zoning Board of Adjustment to hear appeals.

All appeals which may be taken from decisions or orders of the Inspector pursuant to subsection 4-66(d) shall be heard and determined by the Zoning Board of Adjustment. As the appeals body the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall perform the duties prescribed by subsection 4-66(d) and shall keep an accurate journal of all its proceedings.

If the Zoning Board of Adjustment consists of more than five members, the Chairman shall designate five members to hear appeals under this article.

(Ord. of 12-4-97, § 24; Ord. of 3-4-99, Pt. 1)

**Editor's note—** Formerly § 4-73. See the editor's note to § 4-64.

## Sec. 4-75. - Conflict with other provisions.

In the event any provision, standard, or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the City of Mount Airy, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the City shall prevail.

(Ord. of 12-4-97, § 25; Ord. of 3-4-99, Pt. 1)

**Editor's note—** Formerly § 4-74. See the editor's note to § 4-64.

## Sec. 4-76. - Violations; penalty.

- (a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same or to fail to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.
- (b) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 4-66, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (c) The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. § 14-4.
- (d) In addition to the penalty established by subsection (c) above, and the remedies provided by other provisions of this article, this article may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

(Ord. of 12-4-97, § 26; Ord. of 3-4-99, Pt. 1)

**Editor's note—** Formerly § 4-75. See the editor's note to § 4-64.

## Sec. 4-77. - Inspections of unsafe buildings.

At any time where the City of Mount Airy Codes Inspector has obtained certification to act as a building inspector, the following codes shall be enforced to further protect the health, safety, and welfare of the citizens of Mount Airy by allowing the building inspector to placard unsafe buildings.

- (1) *Periodic inspections.* The inspection department shall make periodic inspections, subject to the council's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in structures within its territorial jurisdiction. In addition, it shall make inspections when it has reason to believe that such conditions may exist in a particular structure. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials.
- (2) *Defects in buildings to be corrected.* When a local inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property he owns.
- (3) *Unsafe buildings condemned.*
  - a. *Residential building.* Every building which shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of said building.
  - b. *Nonresidential building or structure.* An inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:
    1. It appears to the inspector to be vacant or abandoned.
    2. It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

If an inspector declares a nonresidential building or structure to be unsafe, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this subsection, the term "community development target area" means an area that has characteristics of a development zone under G.S. § 105-129.3A, a "nonresidential development area" under G.S. § 160A-503(10), or an area with similar characteristics designated by the City council as being in special need of revitalization for the benefit and welfare of its citizens.
- (4) *Removing notice from condemned building.* If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any municipality and that states the dangerous character of the building or structure, he shall be guilty of a Class 1 misdemeanor.
- (5) *Action in event of failure to take corrective action.* If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. § 160A-426 shall fail to take prompt corrective action, the local inspector shall give him written notice, by certified or registered mail to his last known address or by personal service,
  - a. That the building or structure is in a condition that appears to meet one or more of the following conditions:
    1. Constitutes a fire or safety hazard.
    2. Is dangerous to life, health, or other property.

3. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
  4. Has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance.
  - b. That a hearing will be held before the inspector at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
  - c. That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.
- If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the City at least once not later than one week prior to the hearing.
- (6) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed in G.S. § 160A-428, the inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, he shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within such period, not less than 60 days, as the inspector may prescribe; provided, that where the inspector finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
  - (7) *Appeal; finality of order if not appealed.* Any owner who has received an order under G.S. § 160A-429 may appeal from the order to the City council by giving notice of appeal in writing to the inspector and to the City clerk within ten days following issuance of the order. In the absence of an appeal, the order of the inspector shall be final. The City council shall hear and render a decision in an appeal within a reasonable time. The City council may affirm, modify and affirm, or revoke the order.
  - (8) *Failure to comply with order.* If the owner of a building or structure fails to comply with an order issued pursuant to G.S. § 160A-429 from which no appeal has been taken, or fails to comply with an order of the City council following an appeal, he shall be guilty of a Class 1 misdemeanor.
  - (9) *Civil and equitable enforcement.*
    - a. *Civil enforcement.* Whenever any violation is denominated a misdemeanor under the provisions of this part, the City, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.
    - b. *Equitable enforcement.* In the case of a nonresidential building or structure declared unsafe under G.S. § 160A-426(b), a City may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the City in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in article II of this chapter. If the building or structure is removed or demolished by the City, the City shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The City shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.
    - c. *Power of City to define and declare nuisances.* Nothing in this section shall be construed to impair or limit the power of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.
  - (10) *Records and reports.* The inspection department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the North Carolina Department of Cultural Resources. Periodic reports shall be submitted to the City council and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require.
  - (11) *Appeals in general.* Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the state building code or other state building laws shall be taken to the Commissioner of Insurance or his designee or other official specified in G.S. § 143-139, by filing a written notice with him and with the inspection department within a period of ten days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

(Ord. No. 02-04, Pt. 1, 8-2-01; Ord. of 3-4-99, Pt. 1)

Editor's note— Formerly § 4-76. See the editor's note to § 4-64.

Secs. 4-78, 4-79. - Reserved.

#### ARTICLE VI. - HEATING, AIR CONDITIONING, REFRIGERATION AND VENTILATION

Sec. 4-80. - Purpose of article.

The purpose of this article is to establish procedures to require the issuance of permits and making of inspections under this title of the State Building Code.

(Code 1963, § 4-76)

Sec. 4-81. - State Building Code, Volume III adopted.

The North Carolina State Building Code, Volume III, Heating, Air Conditioning, Refrigeration and Ventilation, 1980 edition and subsequent editions, supplements or amendments, as adopted and issued by the North Carolina Building Code Council and the North Carolina Department of Insurance shall be in effect as hereinafter modified in the City and shall be applicable in every building and every property.

(Code 1963, § 4-77)

Sec. 4-82. - Inspector.

The Building Inspector shall perform all duties of, and function as, the Inspector under this article.

(Code 1963, § 4-79)

Sec. 4-83. - Reserved.

Editor's note— A resolution adopted August 19, 1993, repealed all ordinances in conflict with an ordinance adopted June 17, 1991, included herein as § 4-3. At the editor's discretion, § 4-83, which pertained to fees and derived from the Code of 1963, § 4-78 and an ordinance adopted June 18, 1987, has been repealed so as not to conflict with the resolution adopted August 19, 1993.

Secs. 4-84—4-89. - Reserved.

#### ARTICLE VII. - MOBILE HOMES, MODULAR DWELLING UNITS AND OTHER FACTORY-BUILT STRUCTURES

Sec. 4-90. - Regulations adopted.

There is hereby adopted by reference those regulations governing mobile homes, modular dwelling units and other factory-built structures, 1979 edition, published by the North Carolina Department of Insurance to provide uniform standards for mobile homes, and promulgated for the protection of health, life and safety of persons and property. Copies of such regulations shall be kept on file in the office of the Building Inspector at all times.

(Code 1963, § 4-86)

State Law reference— Uniform Standards Code for Mobile Homes, G.S. § 143-144 et seq.

Sec. 4-91. - Reserved.

Editor's note— A resolution adopted August 19, 1993, repealed all ordinances in conflict with an ordinance adopted June 17, 1991, included herein as § 4-3. At the editor's discretion, § 4-91, which pertained to inspection fees and derived from an ordinance adopted June 18, 1987, has been repealed so as not to conflict with the resolution adopted August 19, 1993.

Secs. 4-92—4-99. - Reserved.

#### ARTICLE VIII. - FLOOD DAMAGE PREVENTION

##### DIVISION 1. - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Sec. 4-100. - Statutory authorization.

The Legislature of the State of North Carolina has in G.S. Pt. 6, Art. 21 of Ch. 143; Pt. 3, 5, and 8 of Art. 19 of Ch. 160A; and Art. 8 of Ch. 160A, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Commissioners of the City of Mount Airy, North Carolina, does ordain as follows:

(Ord. No. 2010-005, Art. 1 § A, 8-6-09)

Sec. 4-101. - Findings of fact.

- (a) The floodprone areas within the jurisdiction of the City are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (b) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in floodprone areas of uses vulnerable to floods or other hazards.

(Ord. No. 2010-005, Art. 1, § B, 8-6-09)

Sec. 4-102. - Statement of purpose.

It is the purpose of this article to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within floodprone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. No. 2010-005, Art. 1, § C, 8-6-09)

Sec. 4-103. - Objectives.

The objectives of this article are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in floodprone areas;
- (6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas; and
- (7) Ensure that potential buyers are aware that property is in a special flood hazard area.

(Ord. No. 2010-005, Art. 1, § D, 8-6-09)

Secs. 4-104—4-110. - Reserved.

DIVISION 2. - DEFINITIONS

Sec. 4-111. - Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

*Accessory structure (appurtenant structure)* means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

*Addition (to an existing building)* means an extension or increase in the floor area or height of a building or structure.

*Appeal* means a request for a review of the Floodplain Administrator's interpretation of any provision of this article.

*Area of shallow flooding* means a designated zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

*Area of special flood hazard* see "special flood hazard area (SFHA)."

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

*Base flood elevation (BFE)* means a determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a "special flood hazard area," it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "freeboard," establishes the "regulatory flood protection elevation."

*Basement* means any area of the building having its floor subgrade (below ground level) on all sides.

*Building* see "structure."

*Chemical storage facility* means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

*Disposal* means, as defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

*Elevated building* means a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

*Encroachment* means the advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

*Existing manufactured home park or manufactured home subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood Boundary and Floodway Map (FBFM)* means an official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

*Flood Hazard Boundary Map (FHBM)* means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as zone A.

*Flood insurance* means the insurance coverage provided under the National Flood Insurance Program.

*Flood Insurance Rate Map (FIRM)* means an official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

*Flood insurance study (FIS)* means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The flood insurance study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

*Floodprone area* see "floodplain."

*Flood zone* means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

*Floodplain* means any land area susceptible to being inundated by water from any source.

*Floodplain Administrator* is the individual appointed to administer and enforce the floodplain management regulations.

*Floodplain development permit* means any type of permit that is required in conformance with the provisions of this article, prior to the commencement of any development activity.

*Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.



*Floodplain management regulations* means this article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

*Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

*Freeboard* means the height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The base flood elevation (BFE) plus the freeboard establishes the "regulatory flood protection elevation."

*Functionally dependent facility* means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

*Hazardous waste management facility* means, as defined in G.S. § 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

*Highest adjacent grade (HAG)* means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

*Historic structure* means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
  - (2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
  - (3) Individually listed on a local inventory of historic landmarks in communities with a "certified local government (CLG) program;" or
  - (4) Certified as contributing to the historical significance of a historic district designated by a community with a "certified local government (CLG) program."
- Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

*Lowest adjacent grade (LAG)* means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

*Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*Market value* means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (actual cash value); or adjusted tax assessed values.

*Mean sea level* means, for purposes of this article, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

*New construction* means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

*Nonencroachment area* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.

*Post-FIRM* means construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

*Pre-FIRM* means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

*Principally above ground* means that at least 51 percent of the actual cash value of the structure is above ground.

*Public safety and/or nuisance* means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

*Recreational vehicle (RV)* means a vehicle, which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Reference level* means the top of the lowest floor for structures within special flood hazard areas designated as zone A1-A30, AE, A, A99 or AO.

*Regulatory flood protection elevation* means the "base flood elevation" plus the "freeboard." In "special flood hazard areas" where base flood elevations (BFEs) have been determined, this elevation shall be the BFE with one foot of freeboard. In "special flood hazard areas" where no BFE has been established, this elevation shall be at least one foot above the highest adjacent grade.

*Remedy a violation* means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

*Riverine* means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

*Salvage yard* means any nonresidential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

*Solid waste disposal facility* means any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

*Solid waste disposal site* means, as defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

*Special flood hazard area (SFHA)* means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year, as determined in [section 4-122](#) of this article.

*Start of construction* means substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

*Substantial damage* means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement." Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

*Variance* means a grant of relief from the requirements of this article.

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in divisions 4 and 5 is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation (WSE)* means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

- a. When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this article and shall be elevated or floodproofed in accordance with standards in sections 4-161 and 4-162.
- b. When floodway or nonencroachment data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and nonencroachment areas shall also comply with the requirements of sections 4-162 and 4-166.
- c. All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with section 4-122 and utilized in implementing this article.
- d. When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in division 2. All other applicable provisions of section 4-162 shall also apply.

(Ord. No. 2010-005, Art. 5, § D, 8-6-09)

Sec. 4-165. - Standards for riverine floodplains with base flood elevations but without established floodways or nonencroachment areas.

Along rivers and streams where base flood elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor nonencroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of sections 4-161 and 4-162; and
- (2) Until a regulatory floodway or nonencroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. No. 2010-005, Art. 5, § E, 8-6-09)

Sec. 4-166. - Floodways and nonencroachment areas.

Areas designated as floodways or nonencroachment areas are located within the special flood hazard areas established in section 4-122. The floodways and nonencroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in sections 4-161 and 4-162, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
  - a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
  - b. A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.
- (2) If subsection 4-166(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
  - a. The anchoring and the elevation standards of subsection 4-162(3); and
  - b. The no encroachment standard of subsection 4-166(1).

(Ord. No. 2010-005, Art. 5, § F, 8-6-09)

Sec. 4-167. - Standards for areas of shallow flooding (zone AO).

Located within the special flood hazard areas established in section 4-122, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to sections 4-161 and 4-162, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of one foot, above the highest adjacent grade; or at least four feet above the highest adjacent grade if no depth number is specified.
- (2) Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as required in subsection 4-167(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with subsection 4-142(c) and subsection 4-162(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. No. 2010-005, Art. 5, § G, 8-6-09)

Secs. 4-168—4-180. - Reserved.

#### DIVISION 6. - LEGAL STATUS PROVISIONS

Sec. 4-181. - Effect on rights and liabilities under the existing flood damage prevention ordinance.

This article in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted January 15, 1981 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Mount Airy enacted on January 15, 1981, as amended, which are not reenacted herein are repealed.

The date of the Initial Flood Damage Prevention Ordinance for Surry County is October 29, 1979.

(Ord. No. 2010-005, Art. 6, § A, 8-6-09)

Sec. 4-182. - Effect upon outstanding floodplain development permits.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this article; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this article.

(Ord. No. 2010-005, Art. 6, § B, 8-6-09)

#### Chapter 5 - FIRE PREVENTION AND PROTECTION

##### ARTICLE I. - IN GENERAL

Sec. 5-1. - Interference with firefighters.

It shall be unlawful for any person to interfere with the firefighters of the City in the discharge of their duties.

(Code 1963, § 7-7)

Sec. 5-2. - Unauthorized riding on fire vehicles.

It shall be unlawful for any person to board or ride upon any fire vehicle of the City unless such person is a regular firefighter.

(Code 1963, § 7-6)

Sec. 5-3. - False fire alarms.

It shall be unlawful for any person to give or cause to be given any false alarm of fire.

(Code 1963, § 7-10)

State Law reference— False fire alarms, G.S. § 14-286.

Sec. 5-4. - Possession of dynamite, etc.

It shall be unlawful for any person to own, keep, have or store for the purpose of sale any dynamite or other explosive within the corporate limits of the City.

(Code 1963, § 7-11)

Sec. 5-5. - Outside fires.

It shall be unlawful for any person to cause or maintain a bonfire or fire for the purpose of burning rubbish, trash or leaves.

(Code 1963, § 7-12; Ord. of 8-5-99)

**Cross reference—** Burning of refuse declared a nuisance, § 7-1(f).

Sec. 5-6. - Burning of trash, shavings, etc., in streets.

No trash, paper, shavings or other material shall be burned in any street in the City.

(Code 1963, § 13-5)

Sec. 5-7. - Deposit of ashes and other matter subject to spontaneous combustion.

Ashes, smoldering coals or embers, greasy or oily substances and all other matter which is subject to spontaneous combustion, unless kept in metallic or noncombustible receptacles, shall not be deposited within 15 feet of any wooden or plastered wall, partition, fence, floor of lumber, rubbish or other combustible material. Such receptacles, unless resting on the ground outside of a building, must be placed on noncombustible stands and shall be kept free from any wall or partition by at least two feet. Nothing in this section shall prohibit the deposit of cold or wet ashes and cinders for purposes of improving an unpaved alley or walkway.

(Code 1963, § 7-13)

**Cross reference—** Requirements for containers used for ashes and clinkers, § 6-4(d).

Sec. 5-8. - Construction and maintenance of chimneys.

All chimneys, smokestacks and similar devices for conveying smoke or gases to the outer air from stoves, furnaces, fireboxes, or ovens must not only be constructed and located in accordance with the Building Code, but they must also be maintained in such manner that they do not endanger adjacent property or create a fire hazard.

(Code 1963, § 7-15)

**Cross reference—** Building Code, § 4-20 et seq.

Sec. 5-9. - Fire exits and escapes in hotels, theaters, etc.

- (a) It shall be the duty of the owner of any building operated as a hotel, theater, apartment building, whether so operated by the owner or by another, to provide at least two safe and adequate inside ways of fire escape from the top floor and correcting intervening floors of such building extending to the ground, and to keep the same in proper repair. It shall further be the duty of such owner to provide an outside fire escape extending from the top floor and connecting intervening floors to the ground on all buildings more than two stories high, and to keep the same in proper repair.
- (b) It shall be the duty of the owner of any building used as a public hall, theater or the like, where the public may assemble of right, whether by general invitation or purchase of ticket, to provide at least two safe and adequate exits from different sides of such building, such exits to be not less than five feet wide, with stairways of equal widths extending to the ground, and to keep the same in good repair. It shall be the duty of the Chief of the Fire Department to examine all such buildings at least once each year, and as often as such chief may deem necessary, and if such exits and escapes are not provided or the buildings not in safe repair, to give notice to the owner to have the same constructed or put in proper repair. If such notice is not observed within 30 days after service, and the exits and escapes erected or put in safe repair, the owner shall be guilty of a misdemeanor.

(Code 1963, § 7-16)

Secs. 5-10—5-19. - Reserved.

ARTICLE II. - FIRE PREVENTION CODE

Sec. 5-20. - Title.

This article shall be known as the Fire Prevention and Protection Code of the City of Mount Airy, and may be cited as such and referred to herein as the code.

(Ord. of 4-4-96)

Sec. 5-21. - Intent of code.

- (a) It is the intent of the code to prescribe regulations consistent with nationally recognized good practice for the safe guarding of life and property within the jurisdiction of the City of Mount Airy from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from hazardous conditions in the use or occupancy of buildings or premises.
- (b) The code shall not be construed to hold the City responsible for any damage to persons or property by reason of the inspection or re-inspection authorized herein or failure to inspect or re-inspect or the permits issued or denied as herein provided or by reason of the approval or disapproval of any equipment authorized herein.

(Ord. of 4-4-96)

Sec. 5-22. - Fire chief to enforce code.

The fire prevention and protection code of the City of Mount Airy shall be enforced by the City of Mount Airy Fire Chief and his authorized representatives or as otherwise provided herein.

(Ord. of 4-4-96)

Sec. 5-23. - Adoption of technical codes and standards by reference; copies on file.

- (a) There is hereby adopted by reference and incorporated herein that certain code known as and entitled the North Carolina State Building Code: Fire Prevention Code (Current Edition), Copies of the City of Mount Airy Fire Prevention and Protection Code and all technical codes and standards adopted by reference, shall be filed with, and available for public inspection in the office of the Clerk to the Board of City Commissioners and the Fire Chief.
- (b) Amendments to codes and standards adopted by reference herein which are adopted and published by the North Carolina State Building Code Council shall be effective in the City of Mount Airy at the time such amendments become a part of the North Carolina State Building Code: Fire Prevention Code (Current Edition).

(Ord. of 4-4-96; Ord. No. 2011-002, Pt. 1, 8-19-10)

Sec. 5-24. - Inspection of buildings and premises.

Subject to the limitations and conditions stated in the North Carolina State Building Code, it shall be the duty of the Fire Chief to inspect or cause to be inspected as often as he may deem necessary or appropriate all buildings, structures, and premises within his jurisdiction for the purposes of ascertaining and causing to be corrected any condition which may cause fire or explosion, endanger life from fire or explosion, or any violations of the provisions of the code, or any other ordinances pertaining to fire or explosion hazards.

(Ord. of 4-4-96)

Sec. 5-25. - Permits.

- (a) This code shall require permits from the Fire Chief as set forth in the North Carolina State Building Code: Fire Prevention Code (Current Edition).
- (b) It shall be the duty of the Fire Chief to evaluate applications and issue, if approved, all permits for those conditions as prescribed in the North Carolina State Building Code: Fire Prevention Code (Current Edition) and this code.
- (c) No person shall maintain, store or handle materials or conduct processes which produce conditions hazardous to life or property or install equipment used in connection with such activities without a permit as required by the Fire Chief and prescribed in the North Carolina State Building Code: Fire Prevention Code (Current Edition) and this code. Before a permit may be issued, the Fire Chief shall inspect and approve the receptacles, vehicles, buildings, structures, storage areas, devices, processes and conditions related to the permit.

(Ord. of 4-4-96)

Sec. 5-26. - Service of orders or notices.

- (a) The service of orders or notices for the correction of violations of the code shall be made upon the owner, occupant or other person responsible for the conditions, either by personally delivering a copy of same to such person or by delivering the same to and leaving it with any person in charge of the premises or by sending a copy of the order or notice by certified or registered mail to the owner's last known address.
- (b) When buildings or other premises are occupied by one other than the owner under a lease or other agreement, the orders or notices issued to correct violations of the code shall apply to the occupant thereof; provided that where the order or

notices require the making of additions to or changes in the premises themselves which may become part of the real property of the owner, then in such cases, the orders or notices shall also be issued to the owner of the premises or real property. Failure to deliver an order or notice to the owner, if other than the occupant, shall not invalidate such order or notice.

(Ord. of 4-4-96)

Sec. 5-27. - Tank installation.

Before any tank for underground or aboveground storage of volatile flammable or combustible liquids or any other hazardous material covered by the provisions of this code shall be installed, a permit must be issued and shall be granted only upon written application made to the Building Inspector setting forth therein the location, character size and capacity of the tank, and the purpose for which it is to be used and an agreement that the applicant or user will conform to all the provisions of this code and the ordinances then existing, and in case a pump is to be used in connection therewith, the application shall state its location with respect to the tanks and with respect to the property line. The Building Inspector shall determine whether the proposed tanks comply with the provisions of the code, the ordinances of the City, and laws of the State, and shall issue the permit if he finds there is compliance. The Building Inspector shall have the right to inspect the tanks and appliances before and after installation, and see that its location, installation and operation are in accordance with this code, the ordinances of the City and laws of the State. After the tank is placed in the excavation, and fittings and connections have been attached, thereto, and before it has been covered or concealed from inspection, the applicant for the permit shall notify the Building Inspector and shall wait until the installation of the tank connections and fittings have been approved by the Inspector before covering them.

(Ord. of 4-4-96)

Sec. 5-28. - Fee schedule.

- (a) Fees for inspections required by this code shall be determined by resolution of the City Board of Commissioners. An inspection fee schedule shall be filed with the Clerk to the Board of City Commissioners and the Fire Chief's office for public inspection.
- (b) Inspection fees shall be paid within the number of days specified in the billing or notice of the amount of the fee.

(Ord. of 4-4-96)

Sec. 5-29. - Violations and penalties.

- (a) Any person who shall violate any of the provisions of the code hereby adopted or who shall fail to comply with any judicial warrant, lawful, order, or regulation made thereunder or who builds in violation of any specifications or plans submitted and approved thereunder or any permit issued thereunder, shall be guilty of a misdemeanor. Each day that such violation continues shall constitute a separate offense. In the name of the City, the City Fire Chief, through the City Attorney, may enjoin the construction or erection of any facility, building or structure which does not conform to the provisions of the code.
- (b) This code may be enforced by any of the remedies set forth in G.S. § 160A-175, in addition to others specifically set out herein or in this Code of Ordinances.
- (c) Any person who violates any of the provisions of this code shall be subject to a civil penalty for each violation in the amount established by the ordinance of the Board of Commissioners. Said civil penalty schedule shall be filed with the Clerk to the Board of Commissioners and in the Fire Chief's office for public inspection. Each day of violation shall constitute a separate and distinct offense.
- (d) Civil penalties must be paid within 72 hours after a citation has been issued by the Fire Chief for a violation. The Fire Chief is authorized to issue written citations in the name of the City for violations.
- (e) If any person shall violate this article or chapter or any provision thereof, he shall be guilty of a misdemeanor or shall be fined not more than \$500.00 or imprisoned for not more than 30 days.

(Ord. of 4-4-96)

Sec. 5-30. - Removal of obstructions; prohibited parking.

Any vehicle found obstructing any fire hydrant, fire protection equipment, designated and marked fire lane, or fire station may be removed or towed away by or under the direction of the Fire Chief to a storage area or garage. The owner of such vehicle shall be deemed to have appointed the Fire Chief as his agent for the purpose of arranging for the transportation and safe storage of the vehicle. The owner of such vehicle, before obtaining possession thereof, shall pay all reasonable cost incidental to the removal and storage of the vehicle due for the violation of prohibited parking.

(Ord. of 4-4-96)

Sec. 5-31. - Emergency entry.

The City Fire Chief or his authorized representative shall have the right to enter any building or premises without permission or warrant in the event of any emergency situation constituting a threat to human life, property or the public safety for the purpose of eliminating, controlling, or abating the dangerous condition or situation.

(Ord. of 4-4-96)

Sec. 5-32. - Investigation of fires.

- (a) The City Fire Chief office shall investigate the cause, origin, and circumstances of every fire occurring in the City which is of a suspicious nature or which involves loss of life or injury to persons or when circumstances warrant. Such investigation shall begin immediately upon the occurrence of such a fire and, if it appears that such fire is of suspicious origin, the City Fire Chief shall immediately coordinate investigation activities. Any information obtained pursuant to any such investigation shall be confidential as authorized by law.
- (b) The Police Department, upon request of the Fire Chief or his authorized may render such assistance as necessary in the investigation of any fire determined to be of suspicious origin.

(Ord. of 4-4-96)

Sec. 5-33. - Fire records.

The Fire Chief's office shall keep a record of all fires and emergency alarms and of all the facts concerning the same, including statistics as to the extent of such fires and the damages caused thereby. All such records shall be public except as provided in [section 5-32](#).

(Ord. of 4-4-96)

Sec. 5-34. - Lock box.

Lock boxes shall be required at all new and existing occupancies governed by the Fire Prevention Code that are;

- (1) Equipped with a fire alarm or fire suppression system;
- (2) Have construction features that make normal means of access or forcible entry impractical; or
- (3) When security systems are provided that will hinder the fire department's entry into the building, and the occupant has not provided an approved system of administrative controls that will assure the arrival of personnel with keys to the site within 15 minutes of notification.

(Res. of 1-18-01)

**Editor's note—** This Resolution adopted Jan. 18, 2001, did not specifically amend the Code. Hence, inclusion as [§ 5-34](#) was at the discretion of the editor.

Secs. 5-35—5-50. - Reserved.

ARTICLE III. - OPEN BURNING

Sec. 5-51. - Adoption.

There is hereby adopted by the governing body Sections 1900, 1901, 1902, 1903 and 1904 of the Regulations of the North Carolina Department of Environment, Health and Natural resources Division of Environmental Management Air Quality Section as promulgated in the North Carolina Administrative Code in effect January 1, 1999; and the same are hereby adopted and incorporated as fully as if set out in length herein, and from the date on which this section shall take effect, the provisions thereof-except to the extent by other City ordinances more restrictive-shall be controlling within the limits of the City, copies of which shall be kept in the Fire Chief's office and in the City Manager's office.

(Ord. of 8-5-99)

Sec. 5-52. - Penalty.

Any person who shall violate this article shall be guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to cease and desist therefrom when commanded by the Fire Chief to do so.

(Ord. of 8-5-99)

Chapter 6 - GARBAGE, TRASH AND WEEDS

Sec. 6-1. - Definitions.

[As used in this chapter, the following terms shall have the respective meanings ascribed to them:]

*Ashes.* The residue of the combustion of solid fuels. Includes at times small quantities of glass, crockery, sweepings, dust, brick, metal and other inorganic materials.

*Bloodborne pathogens.* Pathogenic microorganisms that are present in human blood and can cause disease in humans.

*Building waste and debris.* Any refuse or residue resulting directly from building construction, reconstruction, repair or demolition; from grading, shrubbing or other incidental work in connection with any premises; or from replacement of building equipment or appliances.

*Bulk refuse.* Discarded household furniture, bedding and mattresses, lawn cuttings, hedge trimmings, cardboard, etc.

*Business.* An establishment selling a product, manufacturing a product or providing a service.

*Commercial waste.* Rubbish, mixed refuse and ashes originating in and around commercial establishments, industrial establishments, hotels, restaurants, cafeterias and non-public institutions.

*Contaminated.* The presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.

*Contaminated sharps.* Any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

*Dead animals.* Animals that have died naturally or have been accidentally killed. Animals or parts of animals from slaughterhouses are not included in this category.

*Disposal.* The final disposal at some designated point.

*Garbage.* All putrescible animal or vegetable wastes resulting from the handling, preparation, cooking and consumption of food in any private dwelling, multiple dwelling, hotel, restaurant, building or institution.

*Hazardous refuse.* Any refuse, the handling or disposal of which, would constitute a danger to City employees or City property.

*Household wastes.* Garbage, mixed refuse, ashes and bulk originating in and around private dwellings, multiple dwellings, living quarters, or dining facilities located in schools.

*Industrial wastes.* Any residue resulting directly from industrial or manufacturing operations. It shall not include waste originating from commercial operations of an industrial establishment nor shall it include waste resulting from the commercial operations of persons engaged in the construction of buildings, the repairing of streets and buildings, demolition or excavation. Residue resulting from tree or landscaping services shall also be excluded.

*Institutional waste.* Mixed refuse and ashes originating in and around tax exempt hospitals and public charitable, philanthropic or religious institutions conducted for the benefit of the public. Institutions not covered by this definition shall be considered commercial establishments.

*Litter.* Refuse or any other waste material which if thrown or deposited on any premises, vacant lot, street, alley or sidewalk tends to create a danger to public health, safety and welfare.

*Occupational exposure.* Reasonably anticipate skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

*Receptacles.* Any garbage container approved by the Sanitation Superintendent.

*Refuse.* All garbage and rubbish from residences, businesses and industrial plants.

*Rubbish.* All cardboard, plastic, metal or glass food containers, waste paper, rags, sweepings, small pieces of wood, excelsior, rubber, leather and similar waste materials that ordinarily accumulate around home, business or industry. It shall not include garbage, industrial waste or building waste resulting from the operations of a contractor.

*Slop.* Liquid waste related to garbage.

*Trash house.* Any room within or outside a building that is used for the storage of refuse.

*Weeds and rank vegetation.* Any weeds, such as poison ivy, weeds and grasses causing hay fever, plants with obnoxious odors, and those which serve as breeding places for mosquitoes, as a refuge for rats and snakes, and as a hiding place for filth. In addition, the term shall mean any growth that creates a nuisance due to unsightliness or fire hazard, or which might create a serious traffic hazard.

(Code 1963, § 8-11; Res. of 1-21-93)

**Cross reference—** Definitions; rules of construction, § 1-2.

#### Sec. 6-2. - Administration.

(a) *Department of Public Works.* The Department of Public Works shall have the responsibility of collections and disposal of such refuse as herein set forth.

(b) *Sanitation Superintendent.* The Sanitation Superintendent shall have the responsibility for the enforcement of the sanitation regulations and for issuance of citations for any violations.

(Code 1963, § 8-12; Res. of 1-21-93)

#### Sec. 6-3. - Littering.

(a) *Litter in public places.* No person shall throw or deposit any litter in or upon any street, sidewalk or other public place within the City except in public receptacles or in authorized private receptacles for collection.

(b) *Sweeping litter into, or allowing to remain in, gutters, etc.; prohibited.* No person shall sweep into, or deposit in, any gutter, street or other public or private place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk and driveways abutting their property clean and free of litter. This shall not apply to leaves during the regular leaf collection period, October 1 through January 1.

(c) *Merchant's duty to keep sidewalks, etc., free of litter.* No person owning or occupying a place of business shall sweep into, or deposit in or on any gutter, street, sidewalk or other public or private place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalk abutting their business premises clean and free of litter.

(d) *Litter thrown by persons in vehicles.* No person, while a driver or passenger in a vehicle shall throw or deposit litter upon any private property, any street or other public place within the City.

(e) *Truck loads causing litter.* No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, dirt or contents of litter from being blown or deposited upon street, alley or other private or public place.

(f) *Litter in parks or in water courses.* No person shall throw or deposit in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other private or public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere. No person shall throw or deposit litter in any fountain, pond, lake, stream or any other body of water in a park or elsewhere in the City.

(g) *Public waste cans.* No place of business or occupant of any building shall use public waste baskets or cans for disposal of their trash or garbage.

(Code 1963, § 8-18; Res. of 1-21-93)

**State Law reference—** City may regulate illegal disposal of solid waste, littering, G.S. § 160A-185.

#### Sec. 6-4. - Residential refuse collections.

(a) *Generally.* The City of Mt. Airy shall use a system of curbside solid waste collection subject to the following conditions:

(1) The City will provide to its citizens a container at no cost to them for use.

(2) The City will maintain a schedule of once per week pickup.

(3) All roll-out containers must be removed from curbside on non-pickup days.

(4) All refuse must be bagged before being placed in roll-out container.

(5) The City will provide backdoor collection services to those residents who have a bona-fide need for such service. Container must be at a location not more than 100 feet from the roadway. Such a need shall be evidenced by the signature of a qualified physician on a form prepared by the City indicating that the individual cannot perform one or more of the essential life activities that are required in order to roll a roll-out container to the curb for collection. Age alone shall not be a qualification for this service. Backdoor collection is not available to multi-unit housing.

(b) *Receptacles.* All residents shall use the trash container provided by the City. It shall be the responsibility of each customer to safeguard and protect rollout containers from theft, loss or damage, and to report any damage or loss of the container to the Department of Public Services upon discovery of theft, loss or damage. Customers shall be responsible for theft, loss or damage to the container, reasonable wear and tear excepted. It is the responsibility of the resident to keep the container clean.

(c) *Wet garbage.* All wet garbage shall have the liquid drained off and shall be wrapped in paper or other material before it is placed in the garbage receptacle.

(d) *Bulk refuse collections.* Occasional collection of bulk refuse will be made at no extra charge. Refuse must be in disposable containers and placed at curbside. Magazines and stacks of old newspapers shall be securely tied. Small furniture and related items need not be placed in disposable containers.

(e) *Charge for extra collections.* An extra collection of bulk not meeting the requirements of subsections (d) or (f) will be made for the minimum charge listed on the current fee schedule or actual cost, whichever is higher. Such refuse shall be placed at curbside. Items of refuse that cannot be handled by two persons will not be collected.

(f) *Tree trimmings.* The size of any trimmings shall not be greater than three inches in diameter or five feet in length. Trimmings shall be placed at curbside. The City will not dispose of any trees or brush cut by anyone other than the homeowner.

(g) *Non-collectible refuse.* The following refuse will not be collected by City forces: tree stumps, building debris, dirt, rock, plaster, old roofing material, refrigerators, stoves, car parts metal scrap or any other refuse that in the opinion of the Public Services Director cannot be handled safely or is prohibited by landfill regulations.

(h) *Dangerous garbage.* Discarded glass bottles, needles, syringes, and other sharp or dangerous items such as light bulbs, fluorescent tubes and television tubes must be securely packaged and marked so as to prevent injury to the collection

crews.

- (i) *Multi-unit housing (apartment complexes, duplexes, mobile home parks, and similar developments. This section does not apply to owner-occupied units.)* The city will collect garbage from up to three containers at any multi-unit housing complex at no charge. For all additional container collections, a fee as determined in the current Fee Schedule will apply. The number of carts required is determined by the following table:

Number of Units	Minimum Number of Carts Required
First 6	one per each unit
Second 12	one per every two units
More than 18	one per every three units

Fractions shall be rounded to the nearest whole number (0.5 shall be rounded up). However, if the volume of trash exceeds the number of carts, the Public Services Director, at his sole discretion, may require the property owner to increase the number of containers as necessary to properly store the trash.

Each container shall be dumped weekly. The containers shall be clustered in a manner approved by the Public Services Director. If the owner of a multi-unit housing complex so desires, he may contract for sanitation services from a provider other than the City of Mount Airy.

(Code 1963, § 8-13; Res. of 1-21-93; Res. of 5-21-98; Res. No. 02-082, §§ 1—3, 6-6-02; Ord. No. 08-008, § 1, 8-16-07)

**Cross reference—** General requirements as to deposit of matter subject to spontaneous combustion, [§ 5-7](#).

#### Sec. 6-5. - Business and industrial refuse collection.

- (a) *Refuse containers.* The occupant of every building, business and industry shall provide receptacles compatible with the City's garbage compactors so it can be emptied mechanically by City trucks. All receptacles shall be watertight and approved by the Sanitation Superintendent.
- (b) *Point of removal.* Waste accumulated by operators, owners and proprietors of retail and commercial establishments shall be collected from receptacles placed in a location approved by the Sanitation Superintendent.
- (c) *Boxes.* All boxes shall be cut down and tied into bundles by the occupant of each building, business or industry for convenient handling before being placed at the point of collection.
- (d) *Trash houses.* All trash houses shall be fireproof, equipped with electric lights and waterproof.
- (e) *Special containers or collection methods.* Special type containers or collection methods, when determined necessary by the Sanitation Superintendent, shall be furnished by the occupant of a building, or by the management of a business or an industry.
- (f) *Drainage of liquid.* All restaurants, grocery stores, etc., shall drain off all food waste liquid before placing such into receptacles for collection.
- (g) *Animal wastes.* Animal manure shall not be removed by City collection crews. Dead animals from animal hospitals shall not be collected by City crews.
- (h) *Regulated wastes.* Regulated wastes under North Carolina law which are not permitted in landfills will not be collected. Contaminated sharps such as needles, scalpels, broken glass, and exposed ends of dental wires will not be collected.

(Code 1963, § 8-14; Res. of 1-21-93)

#### Sec. 6-6. - Collection of refuse by private contractors.

- (a) *Collection; generally.* No person shall collect, handle, haul or transport on any of the streets, alleys, public ways or places of the City, any refuse without first having procured a permit therefor from the Sanitation Superintendent.
- (b) *Collection of garbage and slop.* Any vehicle to be used for the purpose of hauling or transporting garbage shall first be approved by the Sanitation Superintendent or the Superintendent's representative, who shall issue a permit for this purpose. The vehicle shall be at all times subject to inspection as to condition and cleanliness. All garbage and slop hauled in such vehicles shall be hauled in closed containers. Persons having a permit for hauling garbage or slop under the provisions of this section shall place daily at each hotel, cafe, cafeteria or restaurant or other place from which such garbage or slop is to be hauled a clean empty can furnished by such person or by the operator of such hotel, cafe, cafeteria or restaurant, for garbage or slop. Each such can shall be removed not later than the following day, Sundays excepted.

(Code 1963, § 8-15; Res. of 1-21-93)

#### Sec. 6-7. - Collection and disposal of building waste and debris.

- (a) *Responsibility.* The owner or occupant of every residence, building, business or industry shall have the responsibility of collecting and disposing of all building waste and debris. The Department of Public Works will not under any circumstances collect or remove any building waste or debris.
- (b) *Demolished buildings.* All demolished buildings shall have all material removed down to below-ground level and the land shall be rough graded level so as not to present a nuisance hazard or to appear unsightly.
- (c) *Method of disposal.* Building waste and debris will be taken to the City sanitary landfill for disposal, or to a site pre-approved by the City or County Codes office.

(Code 1963, § 8-16; Res. of 1-21-93)

#### Sec. 6-8. - Collection of dead animals.

Dead animals and livestock will not be collected from veterinarians and animal hospitals. Small animals, if kept separate from garbage and rubbish, will be collected without charge upon notice to the Public Works Department.

(Code 1963, § 8-19; Res. of 1-21-93)

#### Sec. 6-9. - Lot nuisances.

- (a) The existence of any of the following conditions on any lot or parcel of land, whether occupied or not, within the corporate limits is hereby declared to be dangerous and prejudicial to the public health, safety, welfare, appearance, or economic value of adjacent property, and shall constitute a public nuisance:
  - (1) The uncontrolled growth of weeds or grass to a height in excess of 12 inches causing or threatening to cause a hazard detrimental to the public health, safety, welfare, appearance of the community or economic value of adjacent property.
  - (2) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind, which is or may be dangerous or prejudicial to the public health, safety, welfare, appearance of the community or economic value of adjacent property.
  - (3) Any accumulation of rubbish, trash, junk, or tires causing or threatening to cause a hazard detrimental to the public health, safety, welfare, appearance of the community, or economic value of adjacent property.
  - (4) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.
- (b) Every owner, lessee, or person in possession, or any agent, servant, representative, or employee of any such owner, lessee, or person in possession, having control of any lot or land in the City shall cut any growth of weeds or grass, or other vegetation, at least once a month. If such owner, lessee, or person in possession, shall fail to remove such grass, weeds, or other vegetation, the City shall have the right to proceed in accordance with the following subsections.
- (c) The City Manager or designee, upon notice from any person of the existence of any of the conditions described in subsection (a), shall cause to be made by the appropriate County Health Department official, or City official, such investigation as may be necessary to determine whether, in fact, such conditions exist as to constitute a public nuisance as declared in subsection (a).
- (d) Upon the determination that such conditions constituting a public nuisance exist, the City Manager or designee shall notify, in writing, the owner, occupant, or person in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within 15 days from the receipt of such written notice.
- (e) If any person, having been ordered to abate such a public nuisance, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of said order, the City Manager or designee shall cause said condition to be removed or otherwise remedied by having employees of the City or contractor employed by the City to go upon said premises and remove or otherwise abate such nuisance under the supervision of the City. Provided, however, that no employee of the City or contractor employed by the City shall enter upon the premises of an occupied dwelling without the express consent of the owner or tenant in possession. Any person who has been ordered to abate a public nuisance may within the time allowed by this action request the City in writing to remove such condition, the cost of which shall be paid by the person making such request.
- (f) The City shall charge appropriate fees to remove or otherwise abate a public nuisance. It shall be the duty of the Finance Department to mail a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within 30 days from the receipt thereof.
- (g) In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in subsection (f) above, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided by law or by civil action to obtain judgment for such charges together with the costs therefor and reasonable attorney fees.
- (h) The procedure set forth in this section shall be in addition to any other remedies that may now or thereafter exist under law for the abatement of public nuisances and this section shall not prevent the City from proceeding in a misdemeanor criminal action against any person, firm or corporation violating the provisions of this section as provided in G. S. [§ 14-4](#). The maximum fine upon conviction shall be not more than \$50.00.
- (i) Any person, firm or corporation notified under the provisions of subsection (d) herein may appeal from such determination by submitting an appeal in writing to the issuing authority within ten days of the date of such issuing authority's letter of notice. Upon receipt of an appeal, the issuing authority shall schedule a hearing to be held for the appellant before the City Manager. Such hearing shall be held within five days of the date the appeal is received and the appellant shall be advised of such date, time and place in writing. The appellant's failure to appeal shall be conclusively deemed to be a waiver of his right to appeal. After a hearing before the City Manager, an appellant may further appeal to Superior Court and such appeal shall be in the nature certiorari as provided by the North Carolina General Statutes.
- (j) *Chronic violator defined.* A chronic violator is a person who owns property whereupon, at least three times in the previous calendar year, the City issued a notice of violation pursuant to [section 6-9\(d\)](#) due to conditions prohibited by this section.
- (k) *Annual notice to chronic violators.* The City may notify a property owner who is a chronic violator as defined in subsection (j), of this section that, if the violator's property is found to be in violation of this article, the City may, without further notice in the calendar year in which the notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes in accordance with G.S. § 160A-193. The annual notice shall be served by registered or certified mail and regular mail. If the owner of the property refuses to accept notice of the violation, or if the name or whereabouts of the owner of the property cannot be discovered through the exercise of due diligence, then the notice shall be posted on the property in question and published one time in a newspaper of general distribution in the City.

(Code 1963, § 8-17; Ord. of 5-5-87; Ord. of 4-7-92; Res. of 1-21-93; Ord. No. 09-016, Pt. 1, 2-19-09)

**Editor's note—**Ord. No. 2018-036, § 3, adopted May 17, 2018, repealed § 6-9, and enacted a new Property Maintenance Code provided as set forth in Appendix D of this Code. However, at the direction of the city, § 6-9, will not be struck from this Code until further review.

**Cross reference—**Conditions caused by animals declared public nuisances, § 3-32.

**State Law reference—**Municipal abatement of public health nuisances, G.S. § 160A-193; abatement of public health nuisance, G.S. § 130A-19; abatement of imminent hazard, G.S. § 130A-20.

Sec. 6-10. - Use of sanitary landfill.

The City no longer operates a sanitary landfill.

(Code 1963, § 8-20; Res. of 1-21-93)

Chapter 7 - HEALTH AND SANITATION

ARTICLE I. - IN GENERAL

Sec. 7-1. - Miscellaneous nuisances.

- (a) *Exposed refuse.* It shall constitute a nuisance for any person to allow house offal, dead animals or refuse of any kind to be thrown upon the streets or left exposed by any person; or to throw or place on any street, alley or on the lot within or without the building of another any decayed flesh or vegetables, or other offensive matter calculated to create a public nuisance or endanger health. It shall be unlawful for any butcher, fishmonger, huckster or vendor of merchandise of any kind to leave any refuse upon the streets or uncovered by earth upon any lot in the City; and all putrid or decaying animal or vegetable matter must be removed from all cellars and out-buildings.
- (b) *Hides, bones, etc.* It shall constitute a nuisance for any person to keep hides, dried or green; filthy rags; bones; or anything else that may be adjudged a nuisance to the annoyance of any citizen or the detriment of the public health within the City.
- (c) *Tanyards, slaughterhouses.* It shall constitute a nuisance for any person to establish a tanyard or slaughterhouse within the City or within one mile thereof.
- (d) *Stagnant water.* Stagnant water in cellars and other places shall constitute a nuisance and shall be removed on notice from the Sanitation Superintendent to the person so offending.
- (e) *Transportation of seafood.* It shall constitute a nuisance for any person to drive over any street or to park on any street or in any filling station or parking lot within the City any vehicle containing wet-packed or mechanically refrigerated fish or other seafood products unless the vehicle is so constructed or equipped as to prevent leakage or seepage of water therefrom and unless the same is free from noxious odors.
- (f) *Burning of refuse.* It shall constitute a nuisance for any person to burn garbage, market waste, manure or other offensive refuse in the open air, or in any furnace or stove within the City.

(Code 1963, § 8-19(a)—(f))

**Cross reference—**Public nuisances caused by animals, § 3-31 et seq.; open fires regulated, § 5-5; burning trash, § 5-6; refuse disposal, Ch. 6.

**State Law reference—**Abandoned ice boxes, etc., G.S. § 14-318.1; abatement of nuisances, G.S. § 160A-193.

Sec. 7-2. - Noises—Prohibited.

The creation of any unreasonably loud, disturbing and unnecessary noise in the City is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:

- (1) *Vehicle horns.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or, if in motion, only as a danger signal; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- (2) *Radios, phonographs, etc.* The playing of any radio, phonograph or any musical instrument in such manner or with such volume, particularly between the hours of 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel or other type of residence.
- (3) *Noisy animals.* The keeping of any animal or bird, which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.
- (4) *Noisy vehicles.* The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.
- (5) *Steam whistles.* The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work, or as a warning of danger.
- (6) *Unmuffled exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (7) *Compressed air mechanical device.* The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.
- (8) *Construction operations.* The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public safety and then only with a permit from the Board of Commissioners, which permit may be renewed for a period of three days or less while the emergency continues.
- (9) *Noise near schools, libraries, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, library or sanitarium, or court while the same is in session, or adjacent to any hospital or any church during services, which unreasonably interferes with the working of such institution.
- (10) *Loading or unloading vehicles; opening or destroying bales, boxes, etc.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- (11) *Bells and gongs.* The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof, except in cases of emergency.
- (12) *Shouting by peddlers, hawkers, etc.* The shouting or crying of peddlers, hawkers or vendors which disturbs the quiet and peace of the neighborhood.
- (13) *Drums, loudspeakers, etc.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, sale, display or advertisement of merchandise.
- (14) *Sound trucks, etc.* The use of mechanical loudspeakers or amplifiers on trucks, airplanes or other vehicles for advertising or other purposes, except upon permit issued by authority of the Board of Commissioners.

(Code 1963, § 11-8)

**Cross reference—**Restriction on use of vehicle horn in quiet zones, § 15-42.

**State Law reference—**Municipal authority to regulate noise, G.S. § 160A-184.

Sec. 7-3. - Same—Tests and standards.

- (a) *Factors to consider:* The standards which shall be considered in determining whether a violation of section 7-2 exists shall include but shall not be limited to the following:
  - (1) The volume of the noise.
  - (2) The intensity of the noise.
  - (3) Whether the nature of the noise is usual or unusual.
  - (4) Whether the origin of the noise is natural or unnatural.
  - (5) The volume and intensity of the background noise, if any.
  - (6) The proximity of the noise to residential sleeping facilities.
  - (7) The nature and zoning of the area within which the noise emanates.
  - (8) The density of inhabitation of the area within which the noise emanates.
  - (9) The time of the day or night the noise occurs.
  - (10) The duration of the noise.
  - (11) Whether the noise is recurrent, intermittent or constant.
  - (12) Whether the noise is produced by a commercial or noncommercial activity.
- (b) *Tables.*

TABLE I—LIMITING NOISE LEVELS FOR USE DISTRICTS

Octave band Center frequency Cycles Per Second	Maximum Permissible Sound Pressure (Levels in Decibels re 0.0002 Microbars)		
	Use District Residential Commercial Manufacturing		
Below 75	65	79	80

75—150	60	74	75
150—300	55	66	70
300—600	55	59	64
600—1200	45	53	58
1200—2400	45	47	53
2400—4800	40	41	49
Above 4800	40	39	46

If the noise is not smooth and continuous, one or more of the corrections in Table II below shall be added to or subtracted from each of the decibel levels given in Table I.

TABLE II—TYPE OF OPERATION IN CHARACTER OF NOISE  
(Correction in Decibels)

Noise source operated less than 20% of any one-hour period; plus 5\*.

Noise source operated less than 5% of any one-hour period; plus 10\*.

Noise source operated less than 1% of any one-hour period; plus 15\*.

Noise of impulsive character (hammering, etc.); minus 5.

Noise of periodic character (hum, screech, etc.); minus 5.

\*Apply one of these corrections only.

If the noise occurs between the hours of 10:00 p.m. to 7:30 a.m. on Monday through Saturday or at any time on Sunday or holidays, seven shall be subtracted from each of the decibel levels given in Table I.

*Motorized vehicles.* It shall be unlawful to operate a motorized vehicle within the City which creates a noise or sound which exceeds the noise level limits set out in Table III below.

TABLE III—LIMITING NOISE LEVELS FROM VEHICLES

(a) *Trucks and buses:*

Over 10,000 pounds:

97 dB(A) measured at 50 feet-Maximum allowable limit

93 dB(A) measured at 25 feet-Maximum allowable limit

Under 10,000 pounds:

80 dB(A) measured at 50 feet-Maximum allowable limit

86 dB(A) measured at 25 feet-Maximum allowable limit

(b) *Passenger cars:*

78 dB(A) measured at 50 feet-Maximum allowable limit

84 dB(A) measured at 25 feet-Maximum allowable limit

(c) *Motorcycles, including other vehicles:*

87 dB(A) measured at 50 feet-Maximum allowable limit

93 dB(A) measured at 25 feet-Maximum allowable limit

Secs. 7-4—7-30. - Reserved.

ARTICLE II. - JUNKED, ABANDONED OR NUISANCE VEHICLES

Sec. 7-31. - Definitions.

For purposes of this article certain words and terms are defined as follows:

*Abandoned motor vehicle.* An abandoned motor vehicle is one that:

- (1) Has been left on a street or highway in violation of a law or ordinance prohibiting parking;
- (2) Is left on property owned or operated by the city for longer than 24 hours;
- (3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or
- (4) Is left on any public street or highway for longer than seven days.

*Junked motor vehicles.* The term junked motor vehicle means an abandoned motor vehicle that also:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move;
- (3) Is more than five years old and appears to be worth less than \$100.00; or
- (4) Does not display a current license plate.

*Motor vehicle.* All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

*Nuisance vehicle.* A junked or abandoned motor vehicle on public or private property that is determined and declared to be a health and safety hazard, a public nuisance, or unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of collection of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor;
- (5) One which has areas of confinement which cannot be opened from the inside, such as trunks, hoods, etc;
- (6) So situated or located that there is a danger of it falling or turning over;
- (7) Any other vehicle specifically found to be a health or safety hazard or a public nuisance by the Code Enforcement Officer or Building Inspector; or
- (8) So offensive to the sight as to damage the community, neighborhood or area appearance, upon a finding by the Code Enforcement Officer or Building Inspector that such aesthetic regulation is necessary and desirable for the protection of property values, promotion or tourism, indirect protection of health and safety, preservation of the character and integrity of the community, or promotion of the comfort, happiness, and emotional stability of area residents.

(Ord. of 6-18-87, § 1)

Cross reference— Definitions; rules of construction, § 1-2.

Sec. 7-32. - Removal authorized.



It shall be unlawful for the owner of such motor vehicle or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance, junked or abandoned vehicle.

Upon investigation, the City Building Inspector Code Enforcement Officer may determine and declare that such vehicle is junked or abandoned or a health or safety hazard or a public nuisance as defined above and order the vehicle removed.

(Ord. of 6-18-87, § 2)

Sec. 7-33. - Pre-towing notice requirement.

- (a) A vehicle to be towed or otherwise removed because it has been declared to be a nuisance or junk vehicle shall be towed only after notice to the owner or person entitled to possession of the vehicle. If the names and mailing addresses of the registered owners of the vehicles can be ascertained, the notice shall be given to both by first-class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the City on a specified date, no sooner than ten days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time. However, notice need not be given to the registered owner of the vehicle when it does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible. Nevertheless, where such vehicle is on private property, the owner, occupant or lessee of the private property shall be notified.
- (b) If the owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is a nuisance, junked or abandoned vehicle, such appeal shall be made to the City Manager in writing, within the ten-day period set out in paragraph (a) above, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
- (c) Upon receipt of an appeal to the City Manager as set out in paragraph (b) above, the City shall promptly notify the appellant in writing of the date, time and place of such hearing. Within three days, the City Manager shall notify the appellant in writing of his determination and may, upon such notice, proceed under section 7-34.

(Ord. of 6-18-87, § 3)

Sec. 7-34. - Post-towing notice requirements.

- (a) Any vehicle which has been determined to be a nuisance, junked or abandoned vehicle may be removed to a storage garage or area by the City or a towing business contracting to perform such services for the City. Whenever such vehicle is removed, the City shall immediately notify the last known registered owner of the vehicle and any lienholder, such notice to include the following:
  - (1) A description of the removed vehicle;
  - (2) The location where the vehicle is stored;
  - (3) The violation with which the owner is charged, if any;
  - (4) The procedure the owner must follow to redeem the vehicle;
  - (5) The procedure the owner must follow to request a probable cause hearing on the removal.
- (b) This notice shall be mailed to the owner's last known address, unless waived in writing.
- (c) If the vehicle is registered in North Carolina, notice shall be mailed within 24 hours. If the vehicle is not registered in this state, notice shall be mailed to the owner within 72 hours from the removal of the vehicle.

(Ord. of 6-18-87, § 4)

Sec. 7-35. - Right to probable cause hearing before sale or final disposition of vehicle.

After removal of a vehicle declared to be an abandoned, junked or nuisance vehicle, the owner or other person entitled to possession shall be given notice as required by G.S. § 20-219.11(a) and (b), and such person may request in writing a hearing to determine if probable cause existed for removing the vehicle. The request must be filed with the magistrate in the county where the vehicle was towed. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-21.11. Any vehicle towed under this provision shall be released to the owner or person entitled to possession upon the posting of a bond or payment of fees and costs due.

(Ord. of 6-18-87, § 5)

Sec. 7-36. - Sale and disposition of unclaimed vehicle.

Sale procedure for abandoned, junked or nuisance vehicles shall be as provided in G.S. §§ 44A-4, 44A-5 and 44A-6, except that no probable cause hearing shall be required or permitted. If no one purchases the vehicle at the sale and if the value is less than the amount of the lien, the City shall destroy the vehicle. The lien shall be the amount of costs and expenses including reasonable attorney fees.

(Ord. of 6-18-87, § 6)

Sec. 7-37. - Miscellaneous provisions.

- (a) *Written request from owner required for removal of junked, etc., vehicle from private property.* No junked or abandoned vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the building inspector or code enforcement officer has declared such vehicle to be a health or safety hazard under one or more of the provisions of section 7-31.
- (b) *Liability.* No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost or stolen motor vehicle for disposing of the vehicle as provided in this section.
- (c) *Vehicle in enclosed buildings, etc.* Nothing in this section shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City.

(Ord. of 6-18-87, § 7)

Chapter 10 - OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. - IN GENERAL

Sec. 10-1. - Congregating, loitering, etc., in public places.

- (a) It shall be unlawful for persons to congregate, stand, loaf or loiter in any street or upon any sidewalk, bridge crossing or other public place so as to obstruct the same, or to hinder or to annoy, or to prevent, persons passing or attempting or desiring to pass therein or thereon or to congregate, stand, loaf or loiter in or in front of any hall, lobby, hotel, eating or lodging house, office building, store, shop, office or factory or other like building or place of public assemblage so as to obstruct the same or hinder or annoy, or to prevent, persons passing along or into or out of the same, or attempting or desiring to do so, or to make remarks, gestures, noises, signs, or the like to disturb, annoy or insult any person being upon or passing along any street, sidewalk, bridge, crossing or other public place, or along, into or out of the hall, hotel, eating or lodging house, office building, store, shop or factory or like building or place of public assemblage or in any public carrier. Nothing in this section shall be construed to prohibit any person from conducting or attending a meeting or other gathering authorized by a permit issued in accordance with section 10-6.
- (b) It shall be unlawful to be or to collect, gather and become a member of any disorderly crowd on the public streets and within public places in the City.
- (c) It shall be unlawful to loiter, singularly or in larger numbers, upon the premises or parking lot of any store, restaurant, theater, shop, warehouse or other business establishment after such store, restaurant, theater, shop, warehouse or other business establishment has closed its doors to the public and is no longer serving the public when any such store, restaurant, theater, shop, warehouse or other business establishment has posted one or more signs in plain and open view on its buildings or driveway entrances forbidding the loitering or use of its premises by vehicular traffic or by persons on foot after cessation of its business activity for the day.

(Code 1963, § 11-2)

**Cross reference—** Obstructing streets and sidewalks generally, § 13-1.

**State Law reference—** Disorderly conduct in public buildings and facilities, G.S. § 14-132; picketing to obstruct justice, G.S. § 14-225.1.

Sec. 10-2. - Profanity, public drunkenness, etc.

The use of vulgar, obscene or profane language on the streets and in public places is prohibited, and no person shall commit loud and boisterous cursing and swearing in any street, house or elsewhere in the City, nor shall any person be found drunk in the streets, alleys or in any public place of the City, or disturbing the peace of the City, or engaging in obscene conduct.

(Code 1963, § 11-10)

Sec. 10-3. - Consumption of alcoholic beverages in public places generally.

No person shall consume, serve or drink wine, beer, whiskey or any alcoholic beverage of any kind on or in the public streets of the City or upon the grounds or on any public vehicular area of any service station, drive-in theater, supermarket, store, restaurant or office building or any other business or municipal establishment providing parking space for customers, patrons or the public in the City.

(Code 1963, § 11-16)

**Cross reference—** Drinking liquor in poolrooms, § 9-23; consumption in parks, § 10-4.

Sec. 10-4. - Consumption and possession of alcoholic beverages in parks.

No person shall have open and have in such person's possession, or consume, serve or drink wine, beer, whiskey or any alcoholic beverages of any kind on or in the grounds or premises of any park owned by the City.

(Code 1963, § 11-18)

## Sec. 10-5. - Closing time at Riverside Park.

It shall be unlawful for any unauthorized person to be on the premises of Riverside Park after 11:30 p.m.

(Code 1963, § 11-17)

## Sec. 10-6. - Permit for meetings, public speaking.

- (a) Any person or organization desiring to conduct a meeting or to engage in public speaking on the public streets, sidewalks or parks in the City, must obtain a permit from the Chief of Police.
- (b) The purpose of obtaining the permit is to allow the Chief of Police to be aware of activity in the City, and to provide for public safety for all persons involved.
- (c) The permit will indicate the name and approximate date, time and place.
- (d) Due to the close proximity of business establishments located in the Central Business District, and considering the heavy volume of vehicle and pedestrian traffic, the use of equipment designed to amplify the voice or musical instruments in the Central Business District is prohibited.

(Res. of 5-7-91)

**Editor's note**— A resolution adopted Jan. 16, 1992, repealed former § 10-6 and enacted provisions in lieu thereof. The repealed provisions pertained to similar subject matter and derived from Code 1963, § 3-4.

**Cross reference**— Parade permit, § 15-21.

## Sec. 10-7. - Disorderly houses and houses of ill-fame.

- (a) No person shall keep a disorderly house or house of ill-fame within the City, nor shall any person knowingly rent any house to be used as a house of ill-fame after complaint against such house has been made to the City, and all adult persons living in such house shall be considered the keepers thereof and be subject to prosecution for violation of this section.
- (b) No occupant of any disorderly house shall refuse to open the doors and give entrance to a police officer of the City demanding admission for the purpose of suppressing disorderly conduct therein.

(Code 1963, § 11-4)

**Charter reference**— Authority of Board to prohibit disorderly houses and houses of ill-fame, § 38.

**State Law reference**— Prostitution, G.S. § 14-203 et seq.

## Sec. 10-8. - Posting of bills restricted.

It shall be unlawful for any person to post any bills for advertisements, political or otherwise, on any public property, whether upon utility poles or otherwise within the street right-of-way and it shall be unlawful to post any bill of advertisement or poster on any private property within the City without written consent of the owner thereof.

(Code 1963, §§ 13-10, 11-3)

## Sec. 10-9. - Defacing buildings.

No person shall deface any building on any private or public building without permission.

(Code 1963, § 11-3)

**State Law reference**— Damage to property, G.S. §§ 14-127, 14-132, 14-144, 14-154, 14-156, 14-159.

## Sec. 10-10. - Injuring trees, shrubs and flowers in public places.

It shall be unlawful for any person to pull down, cut, deface with signs, break or in any way injure any of the trees, shrubs or flowers on or in the streets, parks or squares of the City.

(Code 1963, § 11-12)

**Charter reference**— Authority of Board to pass ordinances for the protection of shade trees, § 49.

## Sec. 10-11. - Indecent exhibitions, exposure and books.

No person shall give any immoral and indecent or obscene exhibitions or make any obscene or indecent exposure of the person, or sell obscene or indecent books in the City.

(Code 1963, § 11-7)

**State Law reference**— Indecent exposure, immoral shows, etc., G.S. § 14-190.9; obscene literature, G.S. § 14-190.1.

## Sec. 10-11.1. - Adult live entertainment.

- (a) *Prohibited.* Adult live entertainment and adult live entertainment businesses are prohibited within the corporate limits of the City.
- (b) *Definitions.* As used in this section:

*Adult live entertainment* means any performance of or involving the actual presence of real people which exhibits specified anatomical areas as defined in this section.

*Adult live entertainment business* means any establishment or business wherein adult live entertainment is shown for observation by patrons.

*Person* shall include:

- (1) The agent in charge of the building, premises, structure or facility;
- (2) The owner of the building, premises, structure or facility or other property when such owner knew or reasonably should have known the nature of the business located therein, and such owner has refused to cooperate with public officials in reasonable measures designed to terminate the proscribed use; provided, however, that if there is an agent in charge, and if the owner did not have actual knowledge, the owner shall not be prosecuted;
- (3) The owner of the business; or
- (4) The manager of the business.

*Specified anatomical areas* means less than completely and opaquely covered human genitals or pubic region or buttock or female breasts below a point immediately at the top of the areola.

Any person who violates the provisions of this section shall be guilty of a misdemeanor and subject to a fine not to exceed \$500.00 or imprisonment for not more than 30 days.

(Ord. of 1-16-92)

**Editor's note**— An ordinance adopted Jan. 16, 1992, did not specifically amend the Code; hence its inclusion as § 10-11.1 was at the discretion of the editor.

**State Law reference**— Regulation of sexually oriented businesses, G.S. § 160A-181.1.

## Sec. 10-12. - Discharge of firearms.

No person shall fire a gun, pistol or other firearm within the City.

(Code 1963, § 11-14)

**Charter reference**— Authority of Board to prohibit discharge of firearms, § 38.

**Cross reference**— Shooting of birds, § 3-2.

**State Law reference**— Municipal authority to regulate discharge of firearms, G.S. § 160A-189.

## Sec. 10-13. - Sale and use of B.B. guns, pellet guns, air rifles and slingshots.

- (a) *Use.* It shall be unlawful for any person to fire or shoot a B.B. gun, pellet gun or air rifle or to operate a slingshot within the City, except: (1) within a completely enclosed area located at or in a private residence and against a target so placed and arranged that the projectile cannot go outside the enclosed area, or (2) on such person's own premises and under the immediate supervision of the parent, guardian or person legally responsible for personal injury or property damage, or (3) at an established target range which is, at the time of shooting, being operated under the supervision of the Police Department or, an organization authorized by, the City.
- (b) *Possession by minors.* It shall be unlawful for any minor person under 18 years of age, unless accompanied by a parent, legal guardian, or other adult person having custody of such child to have any B.B. gun, pellet gun, air rifle or slingshot in such child's possession at any place within the City (except on such adults premises) or on any property owned or operated by the City outside the corporate limits of the City. Any B.B. gun, pellet gun, air rifle or slingshot found in the City or at any place owned or operated by the City outside the corporate limits of the City in the possession of any person under 18 years of age who is not then accompanied by one of the aforesaid persons and who is on premises other than such

person's own shall be subject to seizure and confiscation by the law enforcement agencies. Also, a violation of this subsection shall be a misdemeanor and shall be punishable as provided by law.

- (c) *Sales to, for minors.* Any person selling a B.B. gun, pellet gun, air rifle or slingshot to a minor or to an adult for use by a minor shall register the name and address of the purchaser in a book kept for that purpose. In addition, before the sale is made the seller shall obtain and file a certificate signed by a parent, legal guardian or other adult person having custody of the minor purchaser or, if the purchase is being made by an adult person, then by the purchaser, giving the name and address and social security or driver's license number of the person signing, reading as follows:

I, _____ (Name),	_____ (Street Address)
_____	(City and State)
Social Security No. _____	
Driver's License No. _____	
Hereby assume and agree to pay any damage to the person or property of another caused by _____ (the minor by or for whom this purchase is made, through the use of the B.B. gun, pellet gun, air rifle or slingshot purchased this date by or for the use of said minor.	
_____ (Seal)"	

The seller shall sign the certificate as witness thereto. The seller shall also, at the time of sale, deliver to the adult person who signs said certificate a copy of this section governing the sale and use of BB guns, pellet guns, air rifles and slingshots. The failure of the seller to comply with the requirements of this section or to retain and make the aforesaid certificate available to any proper law enforcement agency upon request shall be a misdemeanor punishable as provided by law; provided however, the foregoing certificate shall not be required if the purchaser and recipient are nonresidents of the City.

(Code 1963, § 11-15)

**State Law reference—** Selling or giving weapons to minors, G.S. § 14-315; permitting children to use firearms, G.S. § 14-316; sale without permit, G.S. § 14-402; municipal regulations, G.S. §§ 160A-189, 160A-190.

Sec. 10-14. - "Snap-N-Pops," "Silly Strings," etc.

- (a) It shall be unlawful for any person to sell or use "Snap-N-Pops," "Silly Strings" and similar items within the corporate limits of the city.
- (b) The sale or use of such items within the city limits shall constitute a misdemeanor violation.

(Ord. of 10-3-89)

Sec. 10-15. - Loitering for the purpose of engaging in drug-related activity.

- (a) For the purposes of this section, "public place" means any public vehicular area, street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the city.
- (b) For the purposes of this section, a "known unlawful drug user, possessor, or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession or sale of any of the substances referred to in the North Carolina Controlled Substances Act, G.S. Chapter 90, Article V, or has been convicted of any violation of any substantially similar law of any political subdivision of this state or of any other state or of federal law.
- (c) It shall be unlawful for any person to remain or wander about in a public place in a manner and under circumstances manifesting an intent or purpose to engage in a violation of any subdivision of the North Carolina Controlled Substances Act, G.S. Chapter 90, Article 5. Such circumstances shall include:
  - (1) Repeatedly beckoning to, stopping, or attempting to stop passersby, or repeatedly attempting to engage passersby in conversation;
  - (2) Repeatedly stopping or attempting to stop motor vehicles;
  - (3) Repeatedly interfering with the free passage of other persons when:
    - a. Such person is a known unlawful drug user, possessor, or seller;
    - b. Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is engaged in an unlawful drug-related activity; or
    - c. Such person repeatedly passes to or receives from passersby, whether on foot or in a vehicle, money or objects; or
    - d. Such person takes flight upon the approach or appearance of a police officer; or
    - e. Such person is at a location frequented by persons who use, possess, or sell drugs; or
    - f. Any vehicle involved is registered to a known unlawful drug user, possessor, or seller, or is known to be or have been involved in drug-related activities.
- (d) A violation of any provisions of this section shall constitute misdemeanor and subject the offender to the penalties set forth in section 1-6 of the City Code and G.S. § 14-4(a).
- (e) If any section, subsection, paragraph, sentence, clause, phrase or portion of this section is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, shall not affect the validity of the remaining portions hereof in accordance with section 1-9 of the City Code.

(Ord. of 12-5-89)

Sec. 10-16. - Alarms.

- (a) *Procedures.*
  - (1) The Fire Department or Police Department will not visually monitor fire, holdup or burglar alarms.
  - (2) Existing visual monitoring alarm systems will be discontinued by February 17, 1993.
  - (3) All alarms received by the Fire and Police Departments will be accompanied by an automatic dialing alarm system.
  - (4) All automatic dialing alarm systems, including the Fire and Police Departments, will be installed in such a manner that the alarm signals will be routed through the Emergency E911 Telephone System.
  - (5) Business establishments and private residents with an automatic dialing system will be assigned a code. To obtain a code both business establishments and private residents must call the Police Department Communication Supervisor.
- (b) *Fire alarms.*
  - (1) Fire alarms will be dialed into the E911 System which will be directed to the City Communication Center. At this time, the communication personnel will dispatch the Fire Department to the alarm.
  - (2) If a false fire alarm is dispatched and the fire fighting personnel is dispatched, it will be the responsibility of the person placing the false alarm to pay the expenses incurred. The major expense in this case will be to pay the volunteer firefighter. For example, approximately 20 off-duty and volunteer firefighters answer each call. These individuals are paid at the City's current rate.
- (c) *Holdup alarms.*
  - (1) Holdup alarms will be dialed into the E911 System and will terminate in the City Communication Center. Communication personnel will dispatch police personnel to holdup alarms.
  - (2) If a holdup alarm is set off accidentally, or the holdup alarm is false, a \$25.00 charge will be assessed against the person, company or organization setting off the alarm.
- (d) *Burglar alarms.*
  - (1) Burglar alarms will be dialed into the E911 System and will terminate in the City Communication Center. The communication personnel will dispatch police personnel to the burglar alarm.
  - (2) If a burglar alarm is set off accidentally or is false, a \$10.00 charge will be assessed against the person, company or organization setting off the alarm.
  - (3) The hookup of automatic dialing alarm systems through the Emergency E911 System shall not create a contract between the City and any agency, individual firm or corporation.
- (e) *Liabilities.*
  - (1) The City will assume no liability in connection with a default of the fire, holdup or burglar alarm system installed by any person, business or organization.
  - (2) The accurate operation of an alarm is between the individual or business purchasing the alarm and the company providing the alarm service.
- (f) *Registering alarms.* All persons installing an alarm of any type in a business, private residence, or any other organization must notify the Chief of Police.
- (g) *Failure to pay.* Any person, business or organization who fails to pay the service charge for false alarm services within 30 days from written notice by the City will have the service charge assessed against their real property. No business license will be issued or renewed while such service charge is considered delinquent. As an alternative to collecting such charge as an assessment, the City, at its election, may collect such charges by civil action.

(Ord. of 8-18-88; Ord. of 1-21-93)

Sec. 10-17. - Overhead banners for approved festivals or special events.

The City maintains one location for erection of overhead banners. A festival or special event may request placement of an overhead banner advertising the above events provided:

- (1) All overhead banners crossing the right-of-way shall meet the following requirements:

- a. Be no more than 30 feet in length and two-and-one half feet in height; and
  - b. Be no more than two dimensions; and
  - c. Be no less than 18 ounces in weight; and
  - d. Be constructed of vinyl material; and
  - e. Have grommets every two feet on top and bottom of banner. All four corner grommets must be re-enforced; and
  - f. Have sewn hems on all four sides with one-inch webbing added; and
  - g. Have wind slits every four feet and at least four inches wide.
- (2) All signs and banners shall be approved by the City Planning Department before being displayed.
- (3) With single sponsorship, the proportion of a sponsor's logo or name shall not exceed 25 percent of the overall area for any face of the sign or banner.
- (4) Overhead street banners may not be displayed earlier than 20 days prior to the event and will be removed within two days after the event. Dates between September 1<sup>st</sup> and October 15<sup>th</sup> are reserved for Mayberry Days and the Autumn Leaves Festival.
- (5) A \$25.00 fee, per event, in addition to the zoning permit fee must be paid to the City for installation and removal of overhead street banners. No fee will be charged for Mayberry Days, Autumn Leaves Festival or any other City-sponsored event.
- (6) Upon approval of banner proposal, the actual banner must be delivered to the City Planning Department no later than five days prior to the beginning display date. Banners will not be erected or taken down on weekends. Only City staff may erect an overhead banner.
- (7) Overhead banner permits will be issued on a first-come, first-serve approval basis only (with the exception of (4) above). No banner will be installed without having first been issued a permit.

(Ord. No. 05-005, Pt. 1, 9-16-04; Ord. No. 2010-016, Pt. 1, 12-17-09; Ord. No. 2015-008, § 1, 8-21-14)

Sec. 10-18. - Organization and regulation of the Auxiliary Police Unit; workers compensation benefits.

The Board of Commissioners of the City of Mount Airy hereby establishes the following rules and guidelines governing the organization and regulation of the Auxiliary Police Unit in the City of Mount Airy:

- (1) The Auxiliary Police Unit shall consist of seven volunteers who will serve in the unit without compensation; however, they will receive the necessary equipment to carry out their duties.
- (2) The Auxiliary Police Officers shall be vested in the same powers and privileges as are granted regular Mount Airy Police Officers, subject to the limitations herein described.
- (3) Those applicants who are selected for the Auxiliary Program shall meet the same requirements as those applicants who are regularly employed.
- (4) Persons selected for the Auxiliary Program shall be assigned to duties under the supervision of the Chief of Police, or his designee and the City Manager.
- (5) An Auxiliary Officer shall be required to work a minimum of 12 hours per month. The Chief of Police will create written guidelines for scheduling training, operational duties and other administrative details as required.
- (6) An Auxiliary Police Officer will normally work under the direction of a full time Mount Airy Police Officer. Auxiliary Police Officers shall not be permitted to work alone or operate a Mount Airy Police vehicle except at the direction of the Chief of Police or his designee.
- (7) The Mount Airy Auxiliary Police Officer will not be allowed to make arrests or issue criminal warrants or citations except under exigent circumstances when no other option is reasonably available.
- (8) The City Manager shall have the authority to appoint persons to the Auxiliary Police Unit, and shall make known these appointments to the Board of Commissioners upon their selection.

While undergoing official training and performing official duties on behalf of the City of Mount Airy pursuant to this section, the Officers of the Auxiliary Police Unit shall be entitled to the same benefits under the North Carolina Workers' Compensation Act as are the regular officers of the Mount Airy Police Department.

(Ord. No. 03-039, 5-15-03; Ord. No. 09-026, § 1, 6-4-09)

Sec. 10-19. - Reserved.

ARTICLE II. - HOUSING DISCRIMINATION

Sec. 10-20. - Definitions.

When used in this article, the following terms shall have the respective meanings ascribed to them:

*Discriminatory housing practice.* An act which is unlawful under section 10-22, and which includes, in relation to the acquisition of a housing accommodation, any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person because of race, color, religion, national origin, or sex, or the aiding, abetting, inciting, coercing, or compelling thereof.

*Housing accommodation.* Includes improved and unimproved property and means a building, structure, mobile home or trailer, unimproved real property, or portion thereof which is used or occupied, or is intended, arranged, or designed to be used or occupied as a home or residence of one or more persons, whether owner or tenant.

*Person.* As defined in section 1-2, including specifically legal representatives of the State and instrumentalities thereof, lending institutions, and all other groups, combinations, or organizations.

(Code 1963, § 6A-3)

Cross reference— Definitions; rules of construction, § 1-2.

Sec. 10-21. - Purpose.

The general purposes of this article are:

- (1) To provide for execution within the City of the policies embodied in Title VIII of the Federal Civil Rights Act of 1968.
- (2) To safeguard all individuals within the City from discrimination in housing opportunities because of race, color, religion, national origin or sex.

(Code 1963, § 6A-2)

Sec. 10-22. - Unlawful housing practices.

- (a) Discriminatory housing practices, as defined in section 10-30(1), are hereby declared to be unlawful housing practices and in violation of this article, when engaged in by any person not specifically excluded from the coverage of this article by section 10-23.
- (b) Discriminatory housing practices include, but are not limited to, the following:
  - (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a housing accommodation to any person because of race, color, religion, sex, or national origin.
  - (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a housing accommodation, or in the provision of services or facilities in connection therewith, including but not limited to, all types of advertising, financing, or brokerage services.
  - (3) To induce or attempt to induce any person to sell or rent any housing accommodation by representations regarding the entry or prospective entry into the neighborhood of persons of a particular race, color, religion, sex, or national origin.
  - (4) To insert or attempt to honor a condition, prohibition, or restriction, including a right of entry or possibility of reverter, in a written or oral agreement relating to a housing accommodation, when such condition constitutes a discriminatory housing practice. Such provisions are hereby declared void.
- (c) It is the purpose of this article to prohibit discriminatory housing practices of all types. No allegation of a discriminatory housing practice shall be dismissed, without full and proper investigation, merely for failure to come within the precise language of the applicable sections and subsections of this article.

(Code 1963, § 6A-4)

Sec. 10-23. - Exemptions.

This article shall not apply to:

- (1) Rental or sale of rooms or units in housing accommodations containing living quarters occupied or intended to be occupied by no more than four persons living independently of each other, if the owner actually maintains and occupies one of such living quarters as such person's residence.
- (2) Any single-family house sold or rented by an owner; provided, that any such private individual owner does not own more than three single-family houses at any one time; provided further, that in the case of the sale of any single-family house by a private individual owner not residing in such house at the time of or prior to such sale, the exemption granted by this subsection shall apply with respect to one such sale within any 24-month period; provided further, that such private individual owner does not own any interest in, nor is there owned or reserved on such person's behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; provided further, that the sale or rental of any such single-family house shall be excepted from the application of this article only if such house is sold or rented:
  - (i) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person; and
  - (ii) Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 United States Code, section 3604(c), or of any sections of this article; but nothing in this provision shall

prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as is necessary to perfect or transfer the title.

(Code 1963, § 6A-5)

Sec. 10-24. - Procedures for conciliation.

- (a) A person claiming to be aggrieved by a discriminatory housing practice may file a written complaint with the Housing Appeals Board by filing such complaint with the City Codes Enforcement Officer. The written complaint shall set forth the facts upon which the complaint is based in a manner which will enable the Board to identify the person charged (hereinafter the respondent). Notice of the complaint (including the date, place, and circumstances of the alleged unlawful discriminatory housing practice) shall be served by the Board upon the respondent by certified mail within ten days after filing of the complaint. The Codes Enforcement Officer shall investigate the allegations set forth in the complaint for the Housing Appeals Board.
- (b) If it is decided by the Housing Appeals Board that, based on the results of the Codes Enforcement Officer's investigation, there is no reasonable cause to believe that the respondent has engaged in a discriminatory housing practice, the Housing Appeals Board shall notify the complainant and the respondent in writing of its decision within ten days after such decision has been made. A finding of no reasonable cause by the Housing Appeals Board shall not preclude the complainant's private right of action.
- (c) Unless the Housing Appeals Board has notified the complainant and the respondent that there is no reasonable cause to believe that the respondent has engaged in a discriminatory housing practice, the Housing Appeals Board shall endeavor to eliminate the alleged discriminatory housing practice by conference, conciliation, and persuasion. If a conciliation agreement is entered into by both the complainant and the respondent, the Housing Appeals Board shall prepare a written agreement stating its terms and shall furnish a copy of the agreement to the complainant, the respondent, and such other person as the Housing Appeals Board deems proper.
- (d) If either the complaint or answer is amended, the City shall have an additional 15 days to seek conciliation. This period shall be in addition to the 45-day period in section 10-25(a), but shall not extend such period beyond 60 days from the filing of the original complaint.
- (e) A conciliation agreement negotiated by the Housing Appeals Board may include, but is not limited to:
  - (1) Sale, exchange, lease, rental, assignment, or sublease of real property to an individual;
  - (2) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent;
  - (3) Reporting as to the manner of compliance;
  - (4) Posting of notice in conspicuous places in the respondent's place of business in form prescribed by the court or the Housing Appeals Board;
  - (5) Payment to the complainant of actual damages, including compensation for humiliation and embarrassment, and reasonable attorney fees.
- (f) At any time, but not later than one year from the date of a conciliation agreement, the Housing Appeals Board may investigate whether the terms of the agreement are being complied with by the respondent.
- (g) At any time after a complaint is filed, the Housing Appeals Board may file a petition in the court, with the approval of the Board of Commissioners, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this article.
- (h) Hearings:
  - (1) Unless the Housing Appeals Board has decided that there is no reasonable cause to believe that a discriminatory housing practice has occurred, or unless it has negotiated a conciliation agreement, the Housing Appeals Board shall hold a hearing, after proper notice and under rules and procedures adopted by the Board of Commissioners under this article, at which the presence of the complainant, the respondent, and any witnesses and records designated by the Housing Appeals Board may be required.
  - (2) If the Housing Appeals Board determines as a result of the hearing that the respondent has not engaged in a discriminatory housing practice, the Housing Appeals Board shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint and furnish a copy of the order to the complainant, the respondent, the City Attorney, and such other persons as the Housing Appeals Board deems proper.
  - (3) If the Housing Appeals Board determines that the respondent has engaged in a discriminatory housing practice, the Housing Appeals Board shall state its findings of fact and conclusions of law and, if a conciliation agreement has not been negotiated, may, with the approval of the Board of Commissioners, petition the court for any appropriate relief. A copy of the findings and of any negotiated conciliation agreement shall be delivered to the complainant, the respondent, the City Attorney, and such other persons as the Housing Appeals Board deems proper.
- (i) After a finding is made by the Housing Appeals Board following a hearing, unless a petition by the respondent for judicial review is pending, the Housing Appeals Board may publish or cause to be published the name of a person whom it has determined to be engaged in a discriminatory housing practice and the terms of any conciliation agreement.
- (j) Every person subject to this article shall make, keep, and preserve records relevant to the determination of whether discriminatory housing practices have been or are being committed, such records being maintained and preserved in a manner and to the extent required under the Civil Rights Act of 1968 and any regulations promulgated thereunder. Nothing in this article shall be interpreted to require the making, keeping, and preserving of records other than and except as required under the Civil Rights Act of 1968 and any regulations promulgated thereunder.
- (k) In connection with a complaint filed under this article, the Housing Appeals Board or its designated representative shall have access at any reasonable time to premises, records and documents relevant to the complaint, and the right to examine, photograph, and copy evidence.
- (l) Neither a complaint filed pursuant to this article, nor the results of the Housing Appeals Board's investigations, discovery, or attempts at conciliation, in whatever form prepared and preserved, shall be subject to inspection, examination, or copying under G.S. Chapter 132.
- (m) The provisions of G.S. §§ 143-318.9 through 143-318.18 of Chapter 143 shall not be applicable to the activities of the Housing Appeals Board to the extent that it is receiving a complaint or conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to this article.
- (n) No portion of this article shall be construed to authorize the Housing Appeals Board to make a final determination concerning the allegations of a complaint. The Housing Appeals Board's authority and power shall not exceed receiving, investigating and attempting to conciliate complaints, monitoring compliance with the terms of conciliation agreements, and, where warranted, commencing an action in the court alleging the violation of this article, and any other powers granted in section 10-25.

(Code 1963, § 6A-6)

Sec. 10-25. - Additional powers of the Housing Appeals Board.

The Board shall, in addition to its powers as set forth in its enabling legislation, have power:

- (1) To receive, initiate, investigate, seek to conciliate, hold hearings on and make recommendations to parties named in complaints alleging violations of this article, approve or disapprove plans to eliminate or reduce the effects of discriminatory housing practices, and monitor compliance with the terms of such plans.
- (2) To require, at any time after a complaint is filed, answers to interrogatories, administer oaths; and examine witnesses under oath or affirmation in person or by deposition.
- (3) To apply to the court with the approval of the Board of Commissioners upon failure of any person to respond to or comply with a lawful interrogatory, subpoena, or request for the production of relevant evidence or possible sources of evidence, for an order requiring such person to respond to or comply with the interrogatory, subpoena, or request for the production of relevant evidence or possible sources of evidence. The court shall have jurisdiction to issue such order after notice to all proper parties. On petition of the person to whom the subpoena is directed the court may vacate or modify the subpoena.
- (4) To petition the court, with the approval of the Board of Commissioners, for an appropriate relief if the Housing Appeals Board determines following a hearing as provided herein that there is reasonable cause to believe that a violation of this article has occurred, and if efforts at conciliation have not been concluded to the satisfaction of the Housing Appeals Board, or if the terms of any conciliation agreement negotiated by the committee under the provisions of this article are not being complied with by the respondent.
- (5) Rules and regulations which set forth the official duties of the Board shall be approved by the Board of Commissioners and may be adopted, amended, or rescinded at a regular or special meeting. A copy of the text of all rules and amendments shall be available for public inspection and copying at the Codes Enforcement Office.

(Code 1963, § 6A-7)

Sec. 10-26. - Provisions for enforcement.

- (a) An action alleging a violation of this article may be filed in the Superior Court of the 17th Judicial District of the State (hereinafter known as the court) by the Housing Appeals Board, with the approval of the Board of Commissioners. Such an action may also be filed by a complainant if no resolution of the complaint satisfactory to the complainant has been reached within 45 days of the filing of the complaint with the Housing Appeals Board as provided hereinafter. If the Housing Appeals Board has filed an action, a complainant's timely motion to intervene shall be granted.
- (b) If it shall be determined by the court that a discriminatory housing practice has occurred, an order shall issue granting relief to those persons who have suffered the effects of such discrimination. Before relief may be granted, it shall not be necessary for the court to find that intentional discrimination has occurred. It shall be sufficient that the respondent's action or failure to act was intentional and has resulted in unlawful discrimination.
- (c) The court may grant relief as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages, including compensation for humiliation and embarrassment, punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff.

(Code 1963, § 6A-8)

Sec. 10-27. - Unpermitted defense in proceeding against person.

It shall be no defense to a violation of this article by a real estate owner or operator, real estate broker, real estate salesperson, a financial institution, or other person subject to the provisions of this article, that the violation was requested, sought, or otherwise procured by a person not subject to the provisions of this article.

(Code 1963, § 6A-9)

Chapter 10.5 - PARKS AND RECREATION

ARTICLE I. - IN GENERAL

Sec. 10.5-1. - Authority to post and enforce rules and regulations in City recreational facilities.

The City Board authorizes the City Manager to post and enforce rules and regulations upon recommendation of the Recreation Advisory Committee as now established, or as it may be designed in the future, to govern the use of the Lovills Creek Bike/Walking Trail and other recreational facilities of this City.

(Ord. No. 02-011, § 1, 10-4-01)

Sec. 10.5-2. - Presence of registered sex offender on or about public parks.

(a) Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*Public park.* Any publicly owned or maintained land which is designated by the City of Mount Airy as a park or recreational facility.

*Registered sex offender.* An individual who is registered by any state or federal agency as a sex offender and whose name is published on any state or federal registered sex offender listing, including, but not limited to the sex offender registry established in G.S. ~~Ch. 14~~, Art. 27A.

(b) It shall constitute a general offense against the regulations of the City of Mount Airy for any person or persons registered as a sex offender with the State of North Carolina and or any other state or federal agency to knowingly enter into or on any public park owned, operated, or maintained by the City of Mount Airy.

(c) Anyone who is found in violation of this section shall be subject to a fine of not less than \$500.00 per offense and/or 30 days in jail as provided for in G.S. § 14-4. Each and every entry into the park, regardless of the time period involved shall constitute a separate offense under this section.

(d) The City of Mount Airy shall be charged with posting this regulation at the main entrance of each park within 30 days of the passage of this section.

(Ord. No. 09-007, Pt. 1, 9-4-08)

Sec. 10.5-3. - Hazardous recreational activity—Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*Hazardous recreational activity* means skateboarding, inline skating, roller hockey, freestyle bicycling or riding a motorized play vehicle.

*Helmet* means a helmet which is approved for the purpose for which it is used by the American National Standards Institute (ANSI), the Consumer Product Safety Commission (CPSC) or Snell.

*Motorized play vehicles* are propelled by a motor, having a deck and/or seat on which a person could ride, and at least two wheels. Motorized play vehicles include, but are not limited to, motorized skateboards (gas or electric), minibikes, mini-motorcycles, pocket-rockets, go-carts, electric cars, or scooters.

*Skateboard/roller hockey park* means a facility specifically constructed and designated as an area in which persons may engage in one or more of the following activities; skateboarding, inline skating, roller hockey, and freestyle bicycling. Such facility may include obstacles such as ramps, "half-pipes", playing courts and other structures which may be used in the course of such activities.

(Ord. No. 10-19, 3-4-10)

**Editor's note—** Ord. No. 2010-19, adopted March 4, 2010, set out provisions intended for use as §§ 10.5-2—10.5-5. For purposes of classification, and by direction of the city, these provisions have been included as §§ 10.5-3—10.5-6.

Sec. 10.5-4. - Duties of persons involved in hazardous recreation activities.

Any person who participates in or assists in a hazardous recreational activity assumes the known and unknown inherent risks of these activities, irrespective of age, and is legally responsible for all damages, injury or death to himself or herself or other persons or property that result from these activities.

While engaged in a hazardous recreational activity at a City-owned and operated skateboard/roller hockey park, all persons shall do the following:

- (1) Act within the limits of his or her ability and the purpose and design of the equipment used.
- (2) Maintain control of his or her person and the equipment used.
- (3) Refrain from acting in any manner that may cause or contribute to death or injury of himself or herself or other persons.
- (4) Wear safety equipment including a helmet, kneepads and elbow pads at all times during the course of the activity.
- (5) Engage in only those hazardous recreational activities for which the facility is specifically designated. Engaging in any activity which is prohibited for a particular facility shall be a violation of this section.
- (6) In addition to any other penalties contained in this chapter, any person found to be violating any of the provisions of this section may be asked to leave the facility and prohibited from further use of the facility.
- (7) No person shall participate in skateboarding, rollerblading, or roller hockey except in designate areas within any city park. Skateboarding and rollerblading are prohibited on city sidewalks and public streets.

(Ord. No. 10-19, 3-4-10)

**Editor's note—** See editor's note at § 10.5-3.

Sec. 10.5-5. - Compliance with regulations; enforcement.

All persons entering or using any park, playground, recreation or community area or center, or facility (collectively "park") owned or operated by the city shall be obedient to the rules and regulations governing the use of such park. All such rules and regulations and other provisions of this chapter pertaining to a park shall be enforced in the same manner that other ordinances of the town may be enforced pursuant to section 10.5-5 of this chapter. These regulations and other provisions of this article may be enforced by any law enforcement officer within the officer's appropriate territorial and subject matter jurisdiction or as directed by the city manager.

(Ord. No. 10-19, 3-4-10)

**Editor's note—** See editor's note at § 10.5-3.

Sec. 10.5-6. - Penalty for violating the provisions of chapter.

*Penalties for violation.* The following shall be deemed to be expressly incorporated and be referenced within each section of this chapter: A violation of this section or any part thereof, shall constitute a Class 3 misdemeanor.

(Ord. No. 10-19, 3-4-10)

**Editor's note—** See editor's note at § 10.5-3.

Secs. 10.5-7—10.5-30. - Reserved.

## ARTICLE II. - COMMISSION

Sec. 10.5-31. - Creation; composition.

There is hereby created a Commission composed of nine persons to be known as the Parks and Recreation Commission.

(Ord. No. 02-022, Pt. 1, 3-7-02)

Sec. 10.5-32. - Membership.

- (a) The Parks and Recreation Commission shall be composed of nine members appointed at large. The members shall be appointed by the City Council for three-year staggered terms. Vacancies shall be filled by the City Council for balance of the terms. Members shall be persons selected on the basis of their ability and interest to serve in Parks And Recreation, and shall reside inside the corporate limits or the extraterritorial jurisdiction area. Members may be reappointed to serve not more than two consecutive full three-year terms. All members shall have full voting privileges.
- (b) Any member who has three consecutive absences from regular meetings, which absences are not excused by the majority of the other members, shall be replaced by the City Council.

(Ord. No. 02-022, Pt. 1, 3-7-02)

Sec. 10.5-33. - Chairman and other offices.

Within 30 days after appointment, the Parks and Recreation Commission shall elect its Chairman from among the appointed members and create and fill such other of its offices as it may determine. The term of Chairman shall be one year.

(Ord. No. 02-022, Pt. 1, 3-7-02)

Sec. 10.5-34. - Powers and duties.

The powers and duties of the Parks and Recreation Commission shall be to:

- (1) Select from its membership its chairman and such other officers as considered necessary and to adopt bylaws under which it will operate.
- (2) Administer the Parks and Recreation Master Plan.
- (3) Cooperate with any other public authority and to aid and assist in coordinating recreation activities pursuant to and in accord with G.S. § 160A-350—160A-356 and with the provisions of this article.
- (4) Carry out the directions of the City Council and the City Manager and, subject to the directions of the City Council and the City Manager, to make recommendations to the Director of Parks and Recreation.
- (5) Create and administer a Greater Mount Airy Sports Hall of Fame.

(Ord. No. 02-022, Pt. 1, 3-7-02)

Sec. 10.5-35. - Meetings.

Regular meetings of the Parks and Recreation Commission may be held each month at a time designated by the commission in an office designated by the Commission, and special meetings may be held at other times upon a call made by the Director of Recreation or by the Chairman of the Parks and Recreation Commission.

(Ord. No. 02-022, Pt. 1, 3-7-02)

Sec. 10.5-36. - Financial liability.

Neither the Parks and Recreation Commission nor any person representing such Commission shall incur any financial liability in the name of the City.

(Ord. No. 02-022, Pt. 1, 3-7-02)

Chapter 12 - PLANNING AND DEVELOPMENT

ARTICLE I. - IN GENERAL

Secs. 12-1—12-19. - Reserved.

ARTICLE II. - PLANNING BOARD

Sec. 12-20. - Created.

A Planning Board for the City of Mount Airy and its area of extraterritorial jurisdiction is hereby created.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-21. - Membership; terms of office; vacancies.

- (a) The Planning Board shall consist of nine members. Five members of the Planning Board shall be appointed by the Board of Commissioners of the City of Mount Airy, and four of the members shall be appointed by the Board of Commissioners of Surry County.
- (b) For the initial appointments to the Planning Board, the City of Mount Airy shall appoint one member for a one-year term, two members for a two-year term, and two members for three-year terms. Surry County shall appoint one member for a one-year term, two members for two-year terms, and one member for a three-year term. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Each successive appointment of members to the Planning Board shall be for a term of three years. Members may be reappointed for two consecutive terms.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-22. - Attendance at meetings prerequisite to maintaining membership.

Faithful attendance at the meetings of the Planning Board is considered a prerequisite for the maintenance of membership on the Board, and members who miss three consecutive meetings automatically forfeit membership. A member terminated for lack of attendance may appear before the Board of Commissioners and request reinstatement.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-23. - Organizational meeting; election of Chairman, officers; terms.

Within 30 days after the appointment of members to the Planning Board, the Board shall meet and elect a Chairman and create and fill such offices as it may determine. The term of the Chairman and other offices shall be for one year, with eligibility for re-election for any number of successive terms.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-24. - Regular meetings required; nature of meeting; quorum.

- (a) The Planning Board shall hold at least one meeting monthly, and all of its meetings shall be open to the public.
- (b) There shall be a quorum of five members for the purpose of taking any official action required by this article.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-25. - Adopting rules and keeping of records required.

The Planning Board shall adopt rules for transaction of its business and shall keep a record of its members' attendance and its resolutions, discussions, findings, and recommendations, which record shall be a public record.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-26. - General powers and duties.

In addition to the duties prescribed by State law, it shall be the duty of the Planning Board to do the following:

- (1) Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions;
- (2) Prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;
- (3) Establish principles and policies for guiding action in the development of the area;
- (4) Prepare and recommend to the Board of Commissioners ordinances promoting orderly development along the lines indicated in the comprehensive plan;
- (5) Determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area;
- (6) Keep the Board of Commissioners and the general public informed and advised as to these matters;
- (7) Perform any other duties which may lawfully be assigned to it.

(Ord. No. 02-016, Pt. I, 11-15-01)

State Law reference— Supplemental powers of planning board, G.S. § 160A-363.

Sec. 12-27. - Special committees.

The Planning Board may set up special committees to assist it in the study of specific questions and problems.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-28. - Research authority; City officials to furnish records; right of entry to survey, etc.

- (a) As background for its comprehensive plan and any ordinances it may prepare, the Planning Board may gather maps and aerial photographs of manmade and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the community, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts. In addition, the Board may make, cause to be made, or obtain special studies on the location, condition, and adequacy of specific facilities which may include but are not limited to studies of housing, commercial and industrial facilities, parks, playgrounds and recreational facilities, public and private utilities and traffic, transportation, and parking facilities.

- (b) All City officials shall, upon request, furnish to the Board such available records or information as it may require in its work.
- (c) The Board or its agents may, in the performance of its official duties, enter upon lands and make examinations or surveys and maintain necessary monuments thereon.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-29. - Comprehensive plan.

- (a) The comprehensive plan with the accompanying maps, plats, charts, and descriptive matter shall be and show the Planning Board's recommendations to the Board of Commissioners for the development of the area, including among other things the following: The general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly- or privately-owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities, or terminals.
- (b) The plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the area which will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provisions for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services and other public requirements.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-30. - Designated as Zoning Commission; duties generally.

- (a) The Planning Board is hereby designated as the Zoning Commission for the City.
- (b) The Board shall prepare and submit to the Board of Commissioners for its consideration and possible adoption a zoning ordinance for the control of the height, area, bulk, location, and use of buildings and premises in the area, in accordance with the provisions of G.S. §§ 160A-381 through 160A-394. Such proposed zoning ordinance, when adopted by the Board of Commissioners, shall supplant the zoning ordinance and amendments now in effect.
- (c) The Board may initiate from time to time proposals for amendments to the zoning ordinance based upon its studies and comprehensive plan. In addition, it shall review and make recommendations to the Board of Commissioners concerning all proposed amendments to the zoning ordinance.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-31. - Duties as to subdivisions.

- (a) The Planning Board shall review from time to time the existing regulations for the control of land subdivision in the area and submit to the Board of Commissioners its recommendations, if any, for the revision of such regulations.
- (b) The Board shall be the review authority for all proposed plats of land subdivision.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-32. - Public facilities.

The Planning Board shall review with the City Manager and other City officials and report as recommendations to the Board of Commissioners upon the extent, location, and design of all public structures and facilities; on the acquisition and disposal of public properties; on the establishment of building lines, mapped street lines, and proposals to change existing street lines. However, in the absence of a recommendation from the Board, the Board of Commissioners, if it deems wise, after the expiration of 30 days from the date on which the question has been submitted in writing to the Board for review and recommendation, take final action.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-33. - Authority to conduct hearings.

The Planning Board may conduct such hearings as may be required to carry out its duties under this article and as prescribed by State law.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-34. - Authority to inform public.

The Planning Board shall have the power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.

(Ord. No. 02-016, Pt. I, 11-15-01)

Sec. 12-35. - Authority for members, employees to attend planning conferences; payment of expenses.

Members of the Planning Board, when duly authorized by the Board, may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation, and the Board may, by formal and affirmative vote, pay, within the Board's budget, the reasonable traveling expenses incident to such attendance.

(Ord. No. 02-016, Pt. I, 11-15-01)

Secs. 12-36—12-40. - Reserved.

ARTICLE III. - EXTRATERRITORIAL JURISDICTION

Sec. 12-41. - Extraterritorial jurisdiction boundaries; established.

An official map of the City of Mount Airy entitled "City of Mount Airy Extraterritorial Jurisdiction" and dated the 15th day of November, 2001, is hereby adopted showing the extraterritorial jurisdiction area boundary of the City of Mount Airy. Such map shall be maintained in the manner provided for in G.S. § 160A-22 and shall be recorded in the Office of the Register of Deeds of Surry County.

(Ord. No. 02-016, Pt. II, 11-15-01)

Sec. 12-42. - Application and enforcement of ordinances in the extraterritorial area.

The following ordinances contained within this Code shall be applicable in every aspect within the extraterritorial area in the same manner as each is now applicable within the corporate limits of the City of Mount Airy and the designated enforcement officer shall enforce all of the provisions of these ordinances within the extraterritorial area in the same manner as the officer is now authorized to enforce these ordinances within the corporate limits:

Chapter 4. Buildings, Construction and Related Activities (Enforced by Surry County Inspections), Except Article V. Minimum Housing Code

Chapter 12. Planning and Development

Chapter 14. Subdivision Regulations

Appendix A. Zoning (the effective date of zoning jurisdiction shall be as specified in the ordinance adopting the official zoning map for the extraterritorial area.)

(Ord. No. 02-016, Pt. II, 11-15-01)

Chapter 13 - STREETS AND SIDEWALKS

ARTICLE I. - IN GENERAL

Sec. 13-1. - Obstructions generally.

It shall be unlawful for any person to build, erect, construct or place a porch, steps, fence, wall or other obstruction whatsoever in or over any of the streets or sidewalks of the City, to repair or improve any porch, steps, fence or other obstruction whatsoever now in or over any of the streets or sidewalks. It shall likewise be unlawful for any person to obstruct any street or sidewalk with any other article unless approved by the City; provided however, that merchants may use the sidewalk for unpacking or opening merchandise, but must immediately remove such packing and merchandise therefrom; and provided further, that merchants may not use the sidewalks or any part thereof for display of merchandise, but this shall not restrict or prohibit the use of any areas which may exist between the back of the sidewalk and the face of any store building. Benches and seating will be allowed on the sidewalks in the 100, 200, 300 and 400 blocks of North Main Street as approved by the City. This section does not apply to the following:

- (1) Obstructions authorized by a permit issued under section 4-24;
- (2) Merchants use of receptacles for purposes of beautification containing shrubs and other ornamental plants, provided the receptacles and their locations are approved by the City; and
- (3) Special Events. Notwithstanding the foregoing provisions of this section, the City Manager or Chief of Police may authorize within the area designated as the Municipal Service District the temporary obstruction of streets or sidewalks, or the



use of other public property, in conjunction with special events. Provided, however, the special event sponsor shall ensure that there is a continuous five-foot width of unobstructed sidewalk. Anyone desiring a special event permit shall make application to the City Manager detailing the nature and duration of the event and demonstrating how the event will promote a public benefit and the general welfare of the City. In deciding whether to issue a special event permit, the City Manager or Chief of Police shall balance the stated civic purpose of the event against the inconvenience to the public of temporarily closing or obstructing streets and sidewalks and against the cost to the City of ensuring the reasonable protection of the public health, safety and welfare which is attendant to the special event. The issuer of the permit shall be guided by the following considerations:

- a. The time, place and location of the event;
- b. The nature and purpose of the event;
- c. The activities that will be included;
- d. The number of permits previously issued and the area(s) for which such permits were issued;
- e. Anticipated crowd density, time and duration of the event, traffic control, public safety and the cost to the City;
- f. Whether the sponsor should be required to provide appropriate liability insurance; and
- g. Consistency with all other applicable laws and ordinances.

- (4) *Outdoor dining areas.* The City may authorize within the area designated as the Municipal Service District any group of tables, chairs, barriers, and other associated furnishings situated and maintained upon the sidewalk or public alley for use in connection with the consumption of food and beverages sold to the public from or in an adjoining restaurant, as defined in [section 13-10](#).

(Code 1963, § 13-1; Ord. No. 09-006, Pt. 1, 9-4-08; Ord. No. 2014-008, Pt. 1, 12-19-13; Ord. No. 2015-024, 4-16-15)

**Cross reference—** Obstructing intersections, [§ 15-39](#); congregating, loitering, etc., in streets and on sidewalks, [§ 10-1](#).

**State Law reference—** Authority to prevent and remove street and sidewalk obstructions and encroachments, G.S. § 160A-296(a)(2).

#### Sec. 13-2. - Excavations—Permit required; restoration of surface.

No person shall cut or dig any trench, hole or other opening in any street, alley or sidewalk without first obtaining a permit so to do from the Public Services Department. When work under such a permit is completed, the permit holder shall restore the street, alley or sidewalk in as good condition as it was before such opening. Every day's neglect to perform such duty, after having received notice so to do from the Public Services Department shall constitute a separate offense. All such work shall be done under the direction and by consent of the Public Services Department.

(Code 1963, § 13-2; Ord. No. 09-006, Pt. 1, 9-4-08; Ord. No. 2015-024, 4-16-15)

**Cross reference—** Parking vehicles alongside or opposite street excavation, [§ 15-61](#)(5).

**State Law reference—** Authority of City to regulate digging in streets and sidewalks, G.S. § 160A-296(a)(6).

#### Sec. 13-3. - Same—Enclosure.

All excavations in or near any street or sidewalk shall be securely enclosed at all times when persons are not at work therein. Each day such excavation remains unenclosed shall constitute a distinct and separate violation of this section.

(Code 1963, § 13-3; Ord. No. 09-006, Pt. 1, 9-4-08; Ord. No. 2015-024, 4-16-15)

**State Law reference—** Removal of enclosures, G.S. § 136-26.

#### Sec. 13-4. - Signs, awnings and marquees over sidewalks.

- (a) All signs and awnings erected over sidewalks in the City shall be at least ten feet above the sidewalk and back not less than 12 inches from the face of the curb.
- (b) All marquees as much as ten feet in length shall be at least eight feet, six inches above the sidewalks at the lowest point and 24 inches back from the face of the curb.

(Code 1963, § 13-6; Ord. No. 09-006, Pt. 1, 9-4-08; Ord. No. 2015-024, 4-16-15)

#### Sec. 13-5. - Sidewalk construction generally.

No person shall construct any sidewalk within the public right-of-way without first obtaining a permit to do so from the Public Services Director. All sidewalks shall be constructed according to specifications on file in the office of the Public Services Director.

(Code 1963, § 13-7; Ord. No. 09-006, Pt. 1, 9-4-08; Ord. No. 2015-024, 4-16-15)

#### Sec. 13-6. - Construction assessments generally.

It shall be the policy of the Board of Commissioners to charge, as a part of street construction assessments and sidewalk construction assessments, the cost of grading, subgrading, street drainage, clearing, etc., and such costs shall be added to the cost of concrete or other construction methods used in the streets and sidewalks and shall be considered as the basis for making the assessment roll on each street and sidewalk.

(Code 1963, § 13-8; Ord. No. 09-006, Pt. 1, 9-4-08; Ord. No. 2015-024, 4-16-15)

**Charter reference—** Assessments for local improvements, § 51 et seq.

**State Law reference—** Assessments for street and sidewalk construction, G.S. § 160A-216.

#### Sec. 13-7. - Street light standards and specifications.

Street lights shall be installed along all City streets according to City standards and along State maintained streets according to NCDOT Standards. Lights shall be a minimum of 27,500 lumens along major thoroughfares, 9,500 lumens along collector streets, and 7,500 lumens along local streets.

- (1) Lights shall be located within public street rights-of-way.
- (2) Lights shall be located along "named" driveways (with no right-of-way) serving multiple parcels and at least two structures/residences.
- (3) Lights shall be located at all street (not driveway) intersections and at dead-ends. Blocks longer than 400 feet shall be divided as evenly as possible.  
In no case shall lights be closer than 250 feet or further than 400 feet from one another.
- (4) Requests for lights due to safety concerns or outside of this policy shall be made to the City Manager.
- (5) Decorative street lighting requests shall follow the City of Mount Airy Decorative Streetlight Policy.

(Code 1963, § 13-9; Ord. No. 09-006, Pt. 1, 9-4-08)

#### Sec. 13-8. - Comprehensive pedestrian plan; adopted by reference.

- (a) The comprehensive pedestrian plan is hereby adopted by reference as if set out in its entirety. A copy of the plan will be maintained and kept on file in the office of the City Clerk.
- (b) For new construction or major expansions or renovations of nonresidential and multifamily developments (two or more units), or new residential subdivisions on properties where the plan calls for a future sidewalk, said property shall be improved with a new sidewalk and/or any existing sidewalks shall be repaired or widened in accordance with said plan. The property owner/developer shall be responsible for installing said sidewalks and associated curb and guttering if necessary in accordance with City specifications. Such improvements shall be required as a part of the zoning/site plan approval process and shall be installed prior to the issuance of a certificate of occupancy.
- (c) The City of Mount Airy is hereby committed to installing new sidewalks in accordance with said plan as rapidly as funding resources will allow.
- (d) Major expansions or renovations is hereby defined as any structural improvement to the property which has an estimated cost greater than 50 percent of the tax valuation of all the buildings on the subject property.
- (e) Sidewalk requirements along new subdivision streets are stated in the subdivision regulations.
- (f) The Public Services Director in consultation with the Planning Director and direction from the City Manager shall be responsible for prioritizing all individual projects undertaken by the City in general conformity with the plan.

(Ord. of 10-15-92; Ord. No. 07-015, § 1, 11-2-06; Ord. No. 09-006, Pt. 1, 9-4-08; Ord. No. 2015-024, 4-16-15)

#### Sec. 13-9. - Sidewalk sales.

A permit must be obtained from the Chief of Police to conduct a sidewalk sale. The president of the Downtown Business Association or a recognized representative is authorized to initiate a request for a permit. Sidewalk sales shall be limited to four per year. Except for an official sidewalk sale, merchants are prohibited from placing merchandise on the sidewalk.

Additional requirements regarding sidewalk sales:

- (1) Fixtures, devices, and merchandise shall only be located in the area designated by the City, specifically excluding roadways and shall not be located as to impede, endanger, or interfere with pedestrian or vehicular traffic.
- (2) Merchandise areas will be permitted only adjacent to the building in which the retail business is located. Merchandise shall not be permitted next to the curb of the street or in the middle of the sidewalk.
- (3) All merchandise shall be placed on fixtures or devices which are stable and not easily tipped and do not include sharp edges, protrusions, or other features which may be hazardous to the public.
- (4) All merchandise and the fixtures, or devices on which the merchandise is displayed must be secured so that it may not be dislodged during windy or stormy weather.

- (5) In the event of a declared emergency or in a situation where exigent circumstances arise, a permit holder shall remove all articles from the sidewalk when directed to do so by any law enforcement officer, fire official, or emergency medical personnel.
- (6) The merchant or authorized representative shall be responsible for keeping the sidewalk area clean of garbage, trash, or other litter associated with the sale of merchandise.
- (7) The merchant or authorized representative shall not have or use any bell, siren, horn, loudspeaker, or any similar device to attract attention of possible customers.

(Ord. No. 2012-022, Pt. 1, 4-19-12; Ord. No. 2015-024, 4-16-15)

Sec. 13-10. - Outdoor dining areas.

- (a) *Permit issued by the Planning Director.* The planning director or his/her designee may issue permits for outdoor dining areas pursuant to this section on sidewalks and public alleys in the Municipal Service District.
- (2) *Application.* Any restaurant desiring to operate an outdoor dining area shall, before the issuance of a permit, prepare and file an application with the planning director or his/her designee which shall contain the following information:
  - (1) The name, address, and telephone number of the restaurant desiring to operate an outdoor dining area;
  - (2) The name, address, and telephone number of each of the restaurant's operators;
  - (3) The type of food, beverage, and other products to be sold and served at the outdoor dining area;
  - (4) The hours of operation of the restaurant and the proposed hours of operation of the outdoor dining area;
  - (5) A scaled drawing or site plan illustrating the proposed outdoor dining area boundary and surrounding streetscape details covering six feet on either side of the frontage of the associated restaurant, including but not limited to property lines, sidewalks, curb lines, lighting, trees, tree size, tree grates, planters, street signs, bicycle parking, benches, and fire hydrants. The drawing shall illustrate the section of sidewalk or public alley to be used for the outdoor dining area and the section to be kept clear for pedestrian use, and depict the proposed materials and placement of tables, chairs, and barriers on the sidewalk or public alley;
  - (6) Evidence of a valid insurance policy that will indemnify the City for any damage to the sidewalk or public alley, and for any damages for which the City might incur liability because of property damage or personal injury arising out of the use of the sidewalk or public alley for seating purposes. The minimum liability limit of the policy shall be \$1,000,000.00;
  - (7) An indemnity statement, approved by the City Attorney, whereby the restaurant owners agree to indemnify and hold harmless the City and its officers, agents, and employees from any claim arising from the operation of the outdoor dining area;
  - (8) A copy of all permits and licenses issued by the State or the City, including business licenses and all applicable ABC permits, necessary for the operation of the restaurant. This requirement includes any permits or certificates issued by the City for exterior alterations or improvements to the restaurant;
  - (9) Such additional information as may be requested by the planning director or his/her designee to determine compliance with this section;
  - (10) A fee as provided in the City fee schedule to cover the cost of processing and investigating the application and issuing the permit.
- (c) *Issuance of permit.* No permit for the operation of an outdoor dining area may be issued unless the application is complete and unless the following requirements are met:
  - (1) The outdoor dining area must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities, and other customer convenience facilities as the restaurant. The outdoor dining area must be operated under the same name as the restaurant and may not be open or be operated at any time when the restaurant is not open for business.
  - (2) The operation of the outdoor dining area must be clearly incidental to the associated restaurant. The seating capacity of the outdoor dining area may not constitute more than 25 percent of the total seating capacity of the associated restaurant.
  - (3) Tables, chairs, and barriers, as shown in the drawing or plan submitted with the permit application, may be placed on the sidewalk or public alley, but must be located in such a manner so that a minimum five-foot-wide unobstructed pedestrian corridor shall be provided at all times through the sidewalk or public alley. The outdoor dining area shall not block access to public amenities such as bicycle racks, benches, trash receptacles, and way finding or directional signs.
  - (4) The restaurant seeking to operate the outdoor dining area must be located at street level and must front on and open onto the sidewalk or public alley proposed for the outdoor seating area. An unobstructed pedestrian corridor of a minimum of five feet straight out must be maintained between any restaurant entrance and the pedestrian corridor.
  - (5) The outdoor dining area may only be located adjacent to the building. A minimum clearance of five feet shall be maintained between the outdoor dining area and edge of driveways, alleys, and handicapped ramps. At street intersections, the outdoor dining area may not extend within sight triangles.
  - (6) Wider pedestrian corridors or increased clearances may be required where warranted by pedestrian traffic or other circumstances or to comply with the North Carolina Building Code, Americans with Disabilities Act, or other laws.
  - (7) The tables, chairs, and barriers used in the outdoor dining area shall be of a type that is easily movable. These items shall not be permanently affixed to the sidewalk or public alley and must remain within the approved boundaries.
  - (8) Except as elsewhere permitted, the operation or furnishing of the outdoor dining area shall involve no permanent alteration to or encroachment upon any public street, sidewalk, or public alley or to the exterior of the associated restaurant.
  - (9) No tents or cash registers are permitted within the outdoor dining area. No electrical cords may be run from restaurant or a City receptacle to the outdoor dining area.
  - (10) Except as required by subsection (d)(4) below, signage in the outdoor dining area shall conform to the applicable sign provisions of the zoning ordinance.
  - (11) No umbrellas are permitted within the outdoor dining area.
  - (12) Furniture must be made of durable material. Plastic, glass, or unfinished wood furniture is not permitted. Table tops that are four square feet or less in area with no more than two chairs per table are permitted in the outdoor dining area.
- (d) *Alcoholic beverages.* Alcoholic beverages may be served at outdoor dining areas provided the following requirements are met:
  - (1) The outdoor dining area shall be part of a standard restaurant as defined in G.S. § 18B-1000, and shall otherwise be authorized, permitted, or licensed under state laws and the City Code to serve and sell alcoholic beverages for on premise consumption.
  - (2) The portion of the outdoor dining area where alcohol is or may be served shall be delineated by clearly visible barriers and shall not have more than two designated points of ingress and egress.
  - (3) The outdoor dining area must be included as part of the premises for which an ABC permit for a restaurant as defined in G.S. 18B-1000, is issued, pursuant to G.S. 18B-1001, for the purpose of applying and enforcing state laws regarding the sale and consumption of alcoholic beverages on premises.
  - (4) Signs shall be posted, visible at all designated exit points from the outdoor dining area, that it is unlawful to remove alcoholic beverages in open or unsealed containers from the premises. The restaurant operators shall be responsible for insuring that no alcohol is served or consumed outside the designated area.
- (e) *Operation, appearance, and maintenance requirements.* An outdoor dining area shall be operated in such a manner to comply with the following requirements:
  - (1) Outdoor seating is limited to the area approved by the City as specified on the permit application.
  - (2) No more patrons than can be accommodated by the actual seats provided in the outdoor dining area may occupy the outdoor dining area. This does not include patrons travelling through the outdoor dining area to enter or exit the restaurant.
  - (3) Except for planters and pots, all tables, chairs, barriers, and associated furnishings, including but not limited to signage, table top candles, and other accessory items, shall be removed from the sidewalk or public alley at closing and stored inside the restaurant unless otherwise provided in the approved permit. Pursuant to subsection (f), planters, pots, tables, chairs, barriers, and associated furnishings used in the operation of the outdoor dining area must be removed within 24 hours of notice from the City. If such items are not removed upon the 24 hours' notice, the City shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The City shall also have the right to remove such items immediately in emergency situations.
  - (4) Restaurant operators shall keep the outdoor dining area clean of all litter.
  - (5) All tables, chairs, and barriers associated with the outdoor dining area shall be kept in good repair.
  - (6) Compliance with all conditions required for issuance of an outdoor dining area permit shall be maintained while operating pursuant to the permit.
  - (7) The City shall not be responsible for damage to outdoor dining area tables, chairs, barriers, and associated furnishings of any kind under any circumstances.
  - (8) The restaurant operators shall be responsible for repairing any incidental damage to any City property resulting from the operation of the associated outdoor dining area. Any repair work shall be in accordance with applicable federal, state, and local laws, regulations, and standards.
- (f) *Reservation of rights.* The City reserves the right to require any outdoor dining area established pursuant to this section to cease part or all of its operation in order to allow for construction, maintenance, or repair of any street, sidewalk, utility, or public building by the City, its agents or employees, or by any other governmental entity or public utility; and to allow for use of the street or sidewalk in connection with parades, civic festivals, and other events of a temporary nature as permitted by the City.
- (g) *Transfer and expiration.* The permit shall not be transferable. A permit shall expire as stated on the permit, but no more than 12 months after its issuance. The permit may be revoked pursuant to violating the standards set forth in this article.
- (h) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Outdoor dining area* means an area on a sidewalk or public alley whereon tables, chairs, barriers and other associated furnishings are placed for the purpose of consumption of food and beverages.

*Public alley* means a strip of land, typically no more than 20 feet in width, on public property or right-of-way, that is set aside primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

*Restaurant* means an establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and non-alcoholic beverages shall not be less than 30 percent of total gross receipts. A restaurant shall also have a kitchen/preparation area and an inside dining area.

*Restaurant operator* means the person, firm, or corporation operating a restaurant and associated outdoor dining area. As used in this section, this definition includes each and every owner, and each and every manager if different from the owner(s), of the restaurant and associated outdoor dining area.

*Sidewalk* is the portion of the street right-of-way intended for the use of pedestrians that is between the curb and the adjacent property line. If there is no curb or right-of-way parking area, it is the portion of the street right-of-way intended for the use of pedestrians that is between the roadway and the adjacent property line. If there is no curb but there is a right-of-way parking area, it is the portion of the street right-of-way intended for the use of pedestrians that is between the right-of-way parking area and the adjacent property line.

(Ord. No. 2015-24, 4-16-15)

Secs. 13-11—13-19. - Reserved.

ARTICLE II. - PRIVATE CONSTRUCTION OF STREETS FOR CITY ACCEPTANCE

Sec. 13-20. - Scope of, and compliance with, article.

Developers or property owners desiring to open a new street for use as a public travel way and subsequent acceptance and maintenance by the City shall comply with the provisions set forth in this article. To assure compliance with this article, the developers or petitioners shall comply with the provisions of the same before a building permit is issued for construction of the respective street frontage, except, however, a compliance period of up to two years may be granted if satisfactory surety is furnished that will cover costs of street improvements and permit the City to have the improvements made. Unless satisfactory progress is being made, the City may take over and proceed to have the improvement made in such manner as it deems to be the best interest of the City and charge the cost to the surety.

(Code 1963, § 13-15)

Sec. 13-21. - Plan and profile to be approved and recorded.

A plan and profile of the proposed street shall be submitted to the Public Works Department for approval. The right-of-way limits of the street shall give metes and bounds and this instrument shall be properly recorded in the Register of Deeds office prior to final approval.

(Code 1963, § 13-16)

Sec. 13-22. - Changes in location and grade may be required.

The Public Works Department may require changes in the location and grades of the proposed streets if such changes are believed necessary for public safety, convenience and in the interest of good planning.

(Code 1963, § 13-17)

Sec. 13-23. - Right-of-way widths.

- (a) A minimum right-of-way width of 50 feet is desirable and will be adhered to except in case of minor streets where it is evident that this width is not essential or would cause an undue hardship, in which case a width of 40 feet will be acceptable.
- (b) In some instances it may be desirable and practical to open up a street of 30 feet right-of-way or less, especially where such width has been left for a street in an old subdivision and subsequent development limits a desirable increase in width. In such an instance, the Public Works Director and the City Manager shall make a recommendation based on a study of the street to the Board of Commissioners.
- (c) In the case of dead-end streets, a paved turn-around radius of at least 40 feet shall be provided and a right-of-way provided for eventual elimination if this appears feasible.

(Code 1963, § 13-18)

Sec. 13-24. - Pavement widths.

- (a) Pavement widths back-to-back of curb shall not be less than the following:
  - (1) Residential ..... 37 feet
  - (2) Primary business and industrial ..... 41 feet
- (b) In some instances due to limited right-of-way, it may not be feasible to pave a street the desirable minimum width of 37 feet back-to-back of curb. In such instances, the Director of Public Works and the City Manager will study the matter and make recommendations to the Board of Commissioners. In such case, the Board of Commissioners may authorize a lesser width.

(Code 1963, § 13-19)

Sec. 13-25. - Intersection radii.

Street intersection radii shall be a minimum of 15 feet unless existing buildings or other conditions prevent such radii.

(Code 1963, § 13-20)

Sec. 13-26. - Grading.

Should it appear that sidewalks are desirable or necessary, the basic grading for the same shall be done at the same time the travel way of the street is graded and fills on one or both sides made ample for sidewalk construction later. Road banks shall be pleasingly sloped.

(Code 1963, § 13-21)

Sec. 13-27. - Storm drainage.

All materials for storm drainage to the construction limits of the street shall be furnished and installed by the developer or petitioner. The size of culverts or drainage pipe will be determined by the Public Works Department.

(Code 1963, § 13-22)

Sec. 13-28. - Paving standards and specifications.

Paving standards and specifications must comply with City standards which require standard 30 inch curb and gutter sections on both sides. In some extremely limited instances where the following criteria are met:

- (1) Topographic conditions which create an undue hardship;
- (2) Existing sewer and water service;
- (3) Where a subdivision was platted and placed of record prior to the adoption of the City subdivision regulations, Chapter 14, on January 1, 1964;
- (4) Where a subdivision, if outside the corporate limits when subdivided, was annexed other than by petition of the owner;
- (5) Where one or more lots on other streets in the subdivision have existing homes on them;
- (6) Where some streets in the subdivision without curb and gutter are already maintained by the City;

It may be desirable and practical to open up a street without the requirement of curb and gutter. In such instances, the Director of Public Works and the City Manager will make recommendations based on a study of the street to the Board of Commissioners. The Board of Commissioners may, if it is deemed desirable and practical, waive the requirement of curb and gutter.

(Code 1963, § 13-23)

Sec. 13-29. - Completion of water and sewer installations prior to paving.

No street shall be paved or graveled for paving until water and sewer installations are complete except where sewer or water may be installed beyond the paving limits of the street. In areas not available to a sewer, this is not applicable.

(Code 1963, § 13-24)

**Cross reference—** Water and sewers generally Ch. 8.

## Chapter 15 - TRAFFIC

### ARTICLE I. - IN GENERAL

Sec. 15-1. - Definitions.

The following terms, when used in this chapter, shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

*Authorized emergency vehicles.* Vehicles of the Fire Department, police vehicles and such ambulances designated or authorized by the Chief of Police.

*Bicycles.* A vehicle with two tandem wheels, neither of which is less than 20 inches in diameter, with solid or pneumatic tires and propelled by human power.

*Bicycle operation.* In any form or tense thereof, shall refer to using, putting into motion, or causing the functioning of a bicycle by a person mounted thereon.

*Block.* The length of that portion of any street which is located between two street intersections.

*Business district.* The territory contiguous to a street when 75 percent or more of frontage thereon, for a distance of 300 feet or more, is occupied by buildings which are in use for business purposes.

*Crosswalk.* That portion of a roadway which lies between the prolongation of the lateral sidewalk or boundary lines over an intersection and any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

*Curb.* The lateral boundaries of that portion of a street designed for the use of vehicles, whether marked by curbstone or not so marked.

*Driver.* Every person who drives or is in actual physical control of a vehicle.

*Inspection.* The area embraced within the prolongation of the lateral curb or boundary lines of two or more roadways or highways which join or which join and cross one another at an angle.

*Motor vehicle.* A vehicle which is self-propelled but not operated upon rails.

*Official time standard.* Whenever certain hours are named herein they shall mean standard time or daylight saving time as may be in current use in this City.

*Official traffic-control devices.* All signs, signals, markings and devices not inconsistent with this chapter which are placed or erected by authority of the Board of Commissioners or an official having jurisdiction for the purpose of regulating, warning or guiding traffic.

*Official traffic signal.* Any device, whether manually or automatically operated, by which traffic is alternately directed to stop and to proceed.

*Park.* The standing of a vehicle, whether occupied or not, other than temporarily for the purpose of loading or unloading.

*Pedestrian.* Any person afoot.

*Police officer.* Every officer of the City Police Department or any officer authorized to direct traffic or to make arrests for violations.

*Private road or driveway.* Every road or driveway not open to the use of the public for purposes of vehicular travel.

*Public conveyance.* Any vehicle which is engaged in the business of transporting persons for fare.

*Railroad.* A carrier of persons or property, with cars operated on stationary rails.

*Railroad train.* A steam engine, electric or other locomotor, with or without cars coupled thereto, operated upon rails.

*Sidewalk.* That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines exclusively intended for the use of pedestrians.

*Standing.* Any stopping of a vehicle, whether occupied or not.

*Stop.* When required, means complete cessation of movement.

*Stop or stopping.* When prohibited, means any stopping of a vehicle, except when conflict with other traffic is imminent, or when otherwise directed by a police officer.

*Street or highway.* The entire area between lateral property lines which is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

*Traffic.* Pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while using any street for purposes of travel.

*Traffic signs.* Authorized signs or markers which are assumed to be permanently or temporarily placed or erected or installed at certain places and which purport to give notice of direction or to convey a prohibition or warning. The presence of such signs, though not compulsory, is generally dictated by necessity or common sense, with a view to furtherance of public safety.

*Vehicle.* Any device in or upon which any person or property may be transported. For the purpose of this chapter, a bicycle or ridden animal shall also be deemed a vehicle.

(Code 1963, § 10-1; Ord. of 8-7-84)

**Cross reference—** Definitions; rules of construction, [§ 1-2](#).

**State Law reference—** Similar definitions of State law, G.S. § 20-4.01.

Sec. 15-2. - Authority of police to direct traffic; obedience to directions.

In the event of a fire or other emergency, or when it is necessary to expedite traffic or to safeguard pedestrians, police officers may direct traffic as conditions may require, notwithstanding the provisions of this chapter. It shall be unlawful for any person to refuse to comply with any lawful order or direction of a police officer given pursuant to the authority granted by this section.

(Code 1963, § 10-2)

**State Law reference—** Duties and powers of law enforcement officers, G.S. § 20-183.

Sec. 15-3. - Chapter applicable to drivers of government vehicles; obedience thereto.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government and this State, County and City. It shall be unlawful for any such driver to violate any of the provisions of this chapter or the State statutes regulating traffic.

(Code 1963, § 10-12)

**State Law reference—** Application of State traffic laws to drivers of government vehicles, G.S. § 20-168.

Sec. 15-4. - Application of chapter to emergency vehicles.

(a) *Fire and police vehicles.* The provisions of this chapter regulating the operation, parking and standing of vehicles shall apply to vehicles of the Fire Department and police vehicles, except that, unless otherwise directed by a police officer, the driver of such a vehicle, when operating in an emergency, may:

- (1) Park or stand, notwithstanding the provisions of this chapter.
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
- (3) Exceed the prima facie speed limits so long as he does not endanger life or property.
- (4) Disregard regulations governing direction of movement, or turning in specified directions, so long as he does not endanger life or property.
- (5) Drive through a funeral procession.

(b) *Ambulances.* The provisions of this chapter regulating the operation, parking and standing of vehicles shall apply to ambulances, except that, when the driver of an ambulance is displaying a lighted red light and, if traffic conditions require it, is sounding a siren, and the nature of the driver's official duties require it, such driver may:

- (1) Park without regard to parking regulations.
- (2) Turn without regard to turning restrictions except into one-way streets the wrong way.
- (3) Exceed the speed limits so long as such driver does not endanger life or property.
- (4) Drive through a funeral procession.
- (5) Proceed past a traffic signal showing a red light, or a stop sign, but only after slowing down as may be necessary for safe operation.

(c) *Effect of section.* This section shall not relieve the driver of any vehicle referred to herein from the duty to drive with due regard to the safety of all persons, nor shall this section protect such a driver from the consequences of reckless disregard for the safety of others.

(Code 1963, § 10-13)

**State Law reference—** Emergency vehicles exempted from speed restrictions, G.S. § 20-145; yielding right-of-way thereto, G.S. § 20-156; conduct of drivers upon approach thereof, G.S. § 20-157.

Sec. 15-5. - Application of chapter to persons propelling pushcarts, riding bicycles, etc.

Every person propelling any push cart or riding a bicycle or an animal upon a roadway, and also every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter which are applicable to any driver of any vehicle, except for those provisions of this chapter which, by their very nature, can have no application.

(Code 1963, § 10-14)

**State Law reference—** Traffic laws applicable to persons riding animals, etc., G.S. § 20-171.

Sec. 15-6. - Penalties for violations of chapter.

Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor and punishable as prescribed in [section 1-6](#) of this Code; provided, however, that when a citation ticket is placed upon any vehicle indicating that such vehicle is parked in violation of any provision of this chapter, the owner or operator of such vehicle may, within five days thereafter, pay to the City the sum of \$5.00 in full satisfaction of such violation with the exception of parking in front of a fire hydrant, for which a penalty of \$5.00 is fixed for each offense; and, provided further, that the owner of any vehicle who fails to display a City number plate as required by this chapter may, within five days after notice from the City of such failure, pay the City the sum of \$5.00 in full satisfaction of such violation.

(Code 1963, § 10-16; Ord. No. 02-037, 6-20-02)

Sec. 15-7. - Official traffic-control devices—Duty of drivers to obey.

Except as otherwise provided in this chapter and except as otherwise directed by a police officer, every driver of a vehicle in the City shall obey the directions of any official traffic-control device placed in accordance with the provisions of this chapter.

(Code 1963, § 10-58)

**State Law reference—** Authority to regulate traffic by means of signaling devices, G.S. § 20-169; vehicle control signs and signals, G.S. § 20-158.

Sec. 15-8. - Same—Necessity of signs.

No provision of this chapter which provides for signs shall be enforced against an alleged violator, if, at the time and place of the alleged violation, such official sign is not in proper position or is insufficiently legible to an ordinarily observant person. Whenever a particular section does not stipulate signs, such section shall be effective without signs being placed to give notice thereof.

(Code 1963, § 10-59)

Sec. 15-9. - Same—Installation of traffic lights.

The Chief of Police as authorized from time to time by resolution of the Board of Commissioners shall designate intersections at which traffic shall be controlled by electric traffic lights or signals and shall cause such lights or signals to be installed and maintained at such intersections.

(Code 1963, § 10-60)

Sec. 15-10. - Same—Stop and go signal legend; flashing.

Whenever traffic is controlled by traffic-control signals exhibiting the words "Go", "Caution" or "Stop" or exhibiting differently colored lights, successively, one at a time, or flashing lights, the following colors only shall be used, and such terms and lights shall indicate as follows:

- (1) *Green alone, or "Go".* Vehicular traffic facing the signal may proceed straight through, or turn right or left unless a sign prohibits either such turn; but vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians who happen to be lawfully within the intersection.
- (2) *Yellow alone, or "Caution", when shown following the green or "Go" signal.*
  - (a) Vehicular travel facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.
  - (b) Pedestrians facing such signal are thereby warned that there will not be sufficient time to safely cross a roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.
- (3) *Red alone, or "Stop".*
  - (a) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection, or at such other point as may be indicated by a clearly visible line, and shall remain standing until green or "Go" is shown alone; provided, however, that unless specifically prohibited by duly erected signs at such intersections so indicating, "No turn on red," vehicular traffic may turn right on such signal after first coming to a complete stop and ascertaining that such turn can be made in safety.
  - (b) No pedestrian facing such signal shall enter the roadway unless such person can do so without interfering with any vehicular traffic.
  - (c) No turn on red signs shall be erected at intersections designated by the Board of Commissioners.
- (4) *Red with green arrow.*
  - (a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow, but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.
  - (b) No pedestrian facing such signal shall enter the roadway unless such person can do so safely and without interfering with any vehicular traffic.
- (5) *Flashing.* Whenever flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows:
  - (a) *Flashing red (stop signal).* When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection, or at a limit line when marked, and the right to proceed shall be subject to the rules of safety and noninterference with other traffic.
  - (b) *Flashing yellow (caution signal).* When a yellow lens is illuminated by rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(Code 1963, §§ 10-61, 10-62)

Sec. 15-11. - Same—Interference with official traffic-control device or railroad signs and signals.

No person shall, without lawful authority, attempt to or in fact alter, deface, damage, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any part thereof.

(Code 1963, § 10-63)

Sec. 15-12. - Clinging to moving vehicles.

No person riding upon any bicycle, motorcycle, coaster, sled, roller skates, or any toy vehicle shall attach the same or himself to any public conveyance or moving vehicle upon any roadway.

(Code 1963, § 10-3)

Sec. 15-13. - Riding on part of vehicle not intended for passengers.

- (a) No person shall ride on any part of any public conveyance or vehicle not designated or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, nor to persons riding within truck bodies in spaces intended for merchandise.
- (b) The operator of a motorcycle or bicycle, when upon a street, shall not carry any person upon the handle bars, frame or tank of such vehicle, nor shall any person so ride upon any such vehicle.

(Code 1963, § 10-4)

Sec. 15-14. - Restriction on number of passengers in front seat.

It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three persons (including the driver) to ride in the front or driver's seat of a motor vehicle.

(Code 1963, § 10-5)

**State Law reference—** Overcrowded vehicles, G.S. § 20-140.2; number of persons on motorcycles, G.S. § 20-140.4.

Sec. 15-15. - Passengers to remain inside vehicles.

No person shall allow any part of such person's body to protrude beyond the limits of the vehicle in which such person is riding, except to give such signals as are by law required and no person shall hang onto any vehicle whatsoever.

(Code 1963, § 10-6)

Sec. 15-16. - Boarding or alighting from moving vehicles.

No person shall board or alight from any public conveyance or other vehicle while such conveyance or vehicle is in motion.

(Code 1963, § 10-7)

Sec. 15-17. - Entering or riding vehicle without permission.

No person shall enter, jump on or ride any automobile or other vehicle without the consent of the owner or driver thereof.

(Code 1963, § 10-8)

Sec. 15-18. - Dragging vehicle or load upon streets.

It shall be unlawful for any person driving any vehicle or contrivance to allow such vehicle or contrivance or any part of same, or any load or portion of load carried thereon, to drag upon any street in the City.

(Code 1963, § 10-9)

Sec. 15-19. - Open doors obstructing traffic.

It shall be unlawful for any person to open or leave open any door of a motor vehicle on the street side of such vehicle in such manner that it will obstruct the free flow of traffic.

(Code 1963, § 10-10)

Sec. 15-20. - Use of roller skates, coasters, etc., on roadways and sidewalks.

No person on roller skates or riding any coaster, toy vehicle or similar device shall go upon any roadway, other than a street set aside as a play street, except while crossing a street at a crosswalk or intersection, and no person shall ride any such device or toy vehicle on any sidewalk in a business district.

(Code 1963, § 10-11)

Sec. 15-21. - Parades, etc.

It shall be the duty of the Chief of Police to control the authorization and regulation of all parades, marches, demonstrations and similar functions which shall pass or attempt to pass through the public streets or sidewalks of the City. No such parade, march, demonstration or similar function shall be conducted on any public street or sidewalk within the City limits without the sponsor, sponsoring organization, or person in charge having first applied for and having received from the Chief of Police a written parade permit, setting forth the time, place, purpose, number of units and their description, and the name of the sponsor, sponsoring organization, or person in charge. Such requests shall be made to the Chief of Police no later than ten days before such event is to be held. It shall be within the exclusive jurisdiction of the Chief of Police to grant or deny such applications; provided however, that the sponsor, sponsoring organization, or person in charge shall have the right to appeal the denial of any such request to the Board of Commissioners for such discussion and recommendation as may be necessary; the ruling of the Board in such appeals shall be final. The failure or neglect of any such sponsor, sponsoring organization, or person in charge to obtain such a permit shall be punishable as a misdemeanor, as provided in section 1-6, such fine or imprisonment to be applicable to each person or group of persons violating the provisions of this section.

(Code 1963, § 2-88)

Sec. 15-22. - Soliciting or attempting to solicit from any street, highway, or right-of-way.

It shall be unlawful for any person to stand, sit, or loiter, in or on any street or highway, including the shoulders or median strip, or right-of-way of any such street or highway, but excluding sidewalks, while soliciting or attempting to solicit any employment, business, or contributions from the driver or occupants of any vehicle.

(Ord. No. 08-018, § 1, 1-17-08)

Secs. 15-23—15-29. - Reserved.

## ARTICLE II. - OPERATION OF VEHICLES

Sec. 15-30. - Speed limits—Generally.

- (a) *Nonstate highway system streets.* It shall be unlawful for any person to operate any motor vehicle at a speed in excess of 20 miles per hour in any business district within the City or in excess of 25 miles per hour in any school zone. In all other areas of the City, it shall be unlawful for any person to operate any motor vehicle at a speed in excess of 35 miles per hour, unless otherwise posted.
- (b) *State highway system streets.* It shall be unlawful for any person to operate any motor vehicle upon State highway system streets within the corporate limits of the City, in excess of the speeds designated by action of the Board of Commissioners.
- (c) *Residential street.* Except as herein stated in this subsection (c), the speed limits on residential streets which are a part of the State highway system streets shall be 35 miles per hour; except as herein stated in this subsection (c), the speed limits in any business district of the City located on State highway system streets shall be 20 miles per hour; except as herein stated in this subsection (c), the speed limits on a State highway system street in the area of a school zone shall be 25 miles per hour, and it shall be unlawful for any person to operate any motor vehicle in excess of these speeds on State highway system streets.
- (d) *School zones.* It shall be unlawful for any person to operate any motor vehicle at a speed in excess of 25 miles per hour on any street located in any school zone properly designated as such by the erection of signs.

(Code 1963, § 10-33)

**State Law reference—** Speed limits and powers of local authorities relative thereto, G.S. § 20-141 et seq.

Sec. 15-31. - Same—In park.

It shall be unlawful to operate any motor vehicle in excess of ten miles per hour in any City park.

(Code 1963, § 10-18)

Sec. 15-32. - One-way streets—Designation and marking.

- (a) The Chief of Police is hereby authorized to cause any street or section or portion thereof to be designated and maintained as a one-way street and to designate the direction in which vehicles shall lawfully travel thereon, as may be authorized from time to time by resolution of the Board of Commissioners. Whenever any street is so designated, the Chief of Police shall cause the same to be identified as a one-way street by signs or markings painted on the surface of the street or by clearly visible and uniform signs erected adjacent thereto, or both, which signs or markings shall indicate the designation of such street as a one-way street and the direction on which vehicles shall lawfully travel by arrows pointing in that direction. Such signs or markings shall be erected or painted at each entrance to the one-way street and at each cross intersection and at such other points as may be deemed advisable by the Chief of Police.
- (b) The fact that a one-way street has been designated, as indicated by appropriate signs and markings painted or erected as provided in this section, shall be prima facie evidence that the Chief of Police was authorized by the Board of Commissioners to designate same and that it was determined by the Board that the same should be designated according to such markings and signs as they then exist.

(Code 1963, § 10-34)

Sec. 15-33. - Same—Driving in wrong direction.

Whenever any street has been designated as a one-way street as provided in section 15-32, it shall be unlawful for the operator of a vehicle to drive the same upon or over such street in a direction other than that determined and indicated by the appropriate signs and markings conforming to the provisions of such section.

(Code 1963, § 10-35)

**State Law reference—** Authority to prohibit other than one-way traffic on streets, G.S. § 20-169.

Sec. 15-34. - General restrictions on turning.

- (a) The Chief of Police, as authorized from time to time by resolution of the Board of Commissioners is hereby empowered to cause any street intersection to be designated as an intersection at which no right turn shall be made, or at which no left turn shall be made, or at which no U turn shall be made, and to cause any street intersection to be designated as an intersection at which no turn whatsoever shall be made. The Chief of Police is further authorized to cause appropriate signs and markings to be painted on the surface of the street or intersection or clearly visible and uniform signs to be erected at such intersection indicating that it has been designated as an intersection at which no right turn, left turn or U turn shall be made or as an intersection at which no turn shall be made.
- (b) It shall be unlawful for the operator of a vehicle to make a right turn at any intersection which has been designated as an intersection at which no right turn shall be made, and it shall be unlawful for the operator of a vehicle to make a left turn at an intersection that has been designated as an intersection at which no left turn shall be made, and it shall be unlawful for the operator of a vehicle to make a U turn at an intersection that has been designated as an intersection at which no U turn shall be made, and it shall be unlawful for the operator of a vehicle to make any turn at an intersection that has been designated as an intersection at which no turn shall be made, and at which intersection signs or markings have been painted or erected indicating that no right turn, no left turn, no U turn or no turn shall be made, as the case may be.
- (c) The fact that an intersection has been designated as an intersection at which turning is restricted as provided in this section, as indicated by appropriate signs or markings erected or painted in accord with this section, shall be prima facie evidence that the Chief of Police was authorized by the Board of Commissioners to make such designation and that it was determined by the Board that such intersection should be designated according to such signs or markings as they then exist.

(Code 1963, § 10-36)

Sec. 15-35. - Manner of making left turns.

The driver of a vehicle approaching an intersection at which such driver intends to turn left shall keep close to the center line of the street and the left turn shall be made beyond the center of the intersection, as may or may not be indicated by buttons, markers or other directing signs, and shall proceed in the new direction along the right-hand lane.

(Code 1963, § 10-37)

**State Law reference—** Similar State law, G.S. § 20-153.

Sec. 15-36. - Limitations on turning around.

No driver shall turn any vehicle and proceed in the opposite direction within the business district, except at street intersections, and then only at intersections at which U turns are not prohibited in accordance with section 15-34.

(Code 1963, § 10-38)

Sec. 15-37. - Limitations on backing.

The driver of a vehicle shall not back it into any intersection, or over a crosswalk, nor shall the driver of a vehicle back it otherwise unless such movement can be made in safety, and unless ample warning has been given by horn or other signal.

(Code 1963, § 10-39)

Sec. 15-38. - Driving on roadways laned for traffic.

All vehicles operated on any roadway which has been clearly marked with traffic lanes shall be driven, as nearly as practical, entirely within a single lane and shall not be moved out of such lane until the driver has first ascertained that such movement can be made with safety.

(Code 1963, § 10-40)

**State Law reference**— Similar provisions, G.S. § 20-146(d)(1)—(4).

Sec. 15-39. - Obstructing intersections or crosswalks.

No driver shall move such driver's vehicle across an intersection or a marked crosswalk, unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, although a traffic-control signal may be indicating such driver's right to proceed.

(Code 1963, § 10-41)

**Cross reference**— Obstructing streets generally, § 13-1.

Sec. 15-40. - Driving in school zones.

Whenever authorized signs are placed which prescribe any street, or part thereof, as a school zone, drivers of motor vehicles using such street, or part thereof, shall exercise the greatest care for the protection of children.

(Code 1963, § 10-42)

**Cross reference**— Creation of unnecessary noise near schools, § 7-2(9).

Sec. 15-41. - Driving on play streets.

Whenever authorized signs are placed which prescribe any street, or part thereof, as a play street, no person shall drive a vehicle upon any such prescribed street, except persons whose business requires the use thereof or who reside within such prescribed area. Any such person shall exercise the greatest care when driving upon any such play street.

(Code 1963, § 10-43)

Sec. 15-42. - Sounding of horn in quiet zones.

Whenever authorized signs are placed which indicate a zone of quiet, a person operating a motor vehicle within any such zone shall not sound the horn or any other warning device of such vehicle, except in an emergency.

(Code 1963, § 10-44)

**Cross reference**— General restriction on use of vehicle horns, § 7-2(1).

Sec. 15-43. - Driving through funeral processions.

No vehicle may be driven through a funeral procession except as provided in section 15-4.

(Code 1963, § 10-45)

Sec. 15-44. - Driving within sidewalk area.

The driver of a motor vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

(Code 1963, § 10-46)

Sec. 15-45. - Operation of bicycles on sidewalks.

Bicycles may be operated on sidewalks in public parks and in residence districts, but in single file only. Under all circumstances, the rider shall yield the right-of-way to pedestrians using the sidewalk, and due and proper care shall at all times be exercised by the rider for the pedestrians. When approaching a pedestrian on the sidewalk the speed of a bicycle shall be reduced to a speed which is no greater than necessary to continue the operation of the bicycle without the rider dismounting, and shall not be increased until the pedestrian has been passed. No bicycle shall be operated upon any sidewalk, at any time, in the business area of the City.

(Code 1963, § 10-11(a); Ord. of 8-7-84)

Sec. 15-46. - Driving near fires.

- (a) No person shall drive any vehicle of any nature within one block of any fire occurring within the City, during the time the fire company is engaged in fighting such fire or when the fire truck or other apparatus is going to answer a call to such fire. Such vehicles shall be removed immediately upon any alarm of fire being given, from the territory within a block of such fire, and shall not be driven within a block of such fire while firefighters are engaged in the work of extinguishing such fire.
- (b) No person shall drive any vehicle within a block of such fire at any time immediately preceding, during, or immediately after the fire is being fought by the fire company or members thereof, when told to desist from driving such vehicle by any police officer or Chief of the Fire Department or other authorized firefighter.

(Code 1963, § 10-47)

**Cross reference**— Parking near emergency vehicle, § 15-68; parking near fires, § 15-64.

Sec. 15-47. - Driving over fire hose.

No vehicle shall be driven over any hose of the Fire Department being used at any fire, without the consent of the Fire Department official in command.

(Code 1963, § 10-48)

**State Law reference**— Similar state law, G.S. § 20-157(d).

Sec. 15-48. - Driving through safety zone.

No vehicle shall at any time be driven through or within a safety zone.

(Code 1963, § 10-49)

Sec. 15-49. - Cutting corners.

When a filling station or other business is located on any corner in the City it shall be unlawful for the driver of any vehicle to use the driveway of such filling station or other business for the purpose of avoiding making the proper turn at the corner.

(Code 1963, § 10-50)

Sec. 15-50. - Procedure upon approach of authorized emergency vehicle.

The driver of any vehicle shall yield the right-of-way to any authorized emergency vehicle operated on official business and when such authorized emergency vehicle is sounding its siren or other audible device. The driver of any vehicle on the approach of any authorized emergency vehicle which is operated on official business and when such authorized emergency vehicle is sounding its siren or other audible device shall immediately drive to a position parallel to the right-hand edge of the curb, clear of any intersection, and shall stop and remain in such position until the emergency vehicle has passed.

(Code 1963, § 10-51)

**State Law reference**— Similar state law, §§ 20-156, 20-157.

Sec. 15-51. - Following and passing authorized emergency vehicle.

It shall be unlawful for the driver of any automobile or other vehicle to follow an authorized emergency vehicle operated on official business and sounding a siren or other audible device at a distance closer than one block or 400 feet or to pass such emergency vehicle.

(Code 1963, § 10-52)

**State Law reference—** Similar state law, G.S. § 20-157.

Sec. 15-52. - Stop required when emerging from alley, driveway or building.

The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to reaching the sidewalk, or the sidewalk area extending across any alleyway, and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.

(Code 1963, § 10-73)

Sec. 15-53. - Stop intersection.

The Chief of Police is hereby authorized to cause any street intersection to be designated and maintained as a stop intersection and to designate the streets upon which vehicles shall stop before entering such intersection, as may be authorized from time to time by resolution of the Board of Commissioners. Whenever any intersection has been so designated, the Chief of Police shall cause the same to be identified by the erection of signs indicating which vehicles approaching the intersection shall stop, and it shall be the duty of the driver of any vehicle approaching such a sign to bring such vehicle to a complete stop and ascertain that the way is clear before entering such intersection. The fact that a stop intersection has been designated by the Chief of Police, as indicated by appropriate signs erected as provided herein, shall be prima facie evidence that the Chief of Police was authorized by the Board of Commissioners to designate the same and that it was determined by the Board that the same should be designated according to the signs as they then exist.

(Code 1963, § 10-74)

**State Law reference—** Authority to designate stop intersections, G.S. § 20-158.

Sec. 15-54. - Trucks prohibited on certain streets.

- (a) It shall be unlawful to drive any truck, except for the purpose of making a delivery, and then only for a distance necessary to make such delivery, on any streets so posted by sign.
- (b) All thru truck traffic larger than one ton shall be prohibited on Orchard Street from South Street east to Taylor Street; the entire portion of Taylor Street; Hay Street from South Street east to Taylor Street; and that portion of Willow Street from Lebanon Street south to Rawley Avenue.

(Code 1963, § 10-53; Ord. of 9-1-92)

**State Law reference—** Authority and power to regulate use of public streets, G.S. § 160A-296(a)(5).

Sec. 15-55. - Cruising.

- (a) *When and where prohibited.* No person shall drive or permit a motor vehicle under his care, custody or control to be driven past a traffic-control point three or more times within a two-hour period from 6:00 p.m. to 4:00 a.m. Monday through Sunday, in or around a posted no cruising area so as to contribute to traffic congestion, obstruction of streets, sidewalks, or parking lots, public vehicular areas, impediment of access to shopping centers or other buildings open to the public, or interference with the use of property or conduct of business in the area adjacent thereto.
- (b) *Signs to be posted; definition of no cruising area.* At every point where a public street or alley becomes or provides ingress to a no cruising area there shall be posted a sign which designates "no cruising" areas and times. The definition of a "no cruising" area is as follows: No person shall drive or permit a motor vehicle under his care, custody, or control to be driven past a traffic-control point three or more times within a two-hour period in or around this area so as to contribute to traffic congestion, obstruction of streets, sidewalks, or parking lots, public vehicular areas, impediment of access to shopping centers or other buildings open to the public, or interference with the use of property or the conduct of business in the adjacent area.
- (c) *Definition of traffic-control point.* A traffic-control point, as used in this section, means any point or points within the no cruising area established by the Police Department for the purpose of monitoring cruising.
- (d) *Violations generally.* No violations shall occur except upon the third passage by the same traffic-control point within the aforementioned two-hour period.
- (e) *Designation, posting of no cruising area by resolution.* No area shall be designated as a "no cruising" area except upon the passage of a resolution by the Council specifically mandating such designation and posting for a particular area.
- (f) *Exception.* This section shall not apply to in-service emergency vehicles, taxicabs for hire, buses and other vehicles being used for business purposes.
- (g) *Penalties for violation.* Where there is a violation of any provision of this section, the City shall take the following action: A police officer shall issue a citation for the violation subjecting the violator to a \$25.00 civil penalty to be paid within ten days, which penalty shall provide for an additional \$25.00 delinquency charge upon nonpayment, and which penalty and delinquency may be recovered by the City in a civil action, together with the costs of such action including reasonable attorney fees.

**Editor's note—** An ordinance adopted June 2, 1987, did not specifically amend this Code; hence, inclusion of the substantive provisions of the ordinance as ~~§ 15-55~~ was at the discretion of the editor.

Secs. 15-56—15-59. - Reserved.

#### ARTICLE III. - STANDING AND PARKING

Sec. 15-60. - Parking Advisory Committee.

- (a) *Composition and terms of members:* The Parking Advisory Committee shall consist of seven members; the term of office for six of the members shall be three years; provided, however, two of the initial appointees shall be appointed for a term of one year; two for a term of two years; and two for a term of three years. The seventh member of the Parking Advisory Committee shall be the president of the Mount Airy Merchants' Association, such member's term being concurrent with such member's tenure of office as president of the Merchant's Association. The Mayor and City Manager shall serve as ex-officio members on the Parking Advisory Committee and are to be notified of all meetings of this committee.
- (b) *Qualifications for appointment:* Members of the Parking Advisory Committee to be eligible for appointment must live in the greater Mount Air community and own real property in the municipal service district or actively participate as an owner, copartner, or major shareholder in a business, or occupy a position of top management of an active business in the municipal service district.
- (c) *Filling of vacancies:* Any member of the Parking Advisory Committee shall cease to be a member of said committee if such member moves out of the greater Mount Air community, sells such person's interest in the business activity, terminates management activity, ceases any activity that qualifies such an individual to serve on said committee, or fails to attend without acceptable advance notice three consecutive meetings of the Parking Advisory Committee. Vacancies occurring on the Parking Advisory Committee for reasons other than expiration of term shall be filled as they occur for the period of the unexpired term. All appointments, whether made at the expiration of the term of appointment or otherwise, shall be made by the Mayor subject to the approval of the Board of Commissioners. The members of the Parking Advisory Committee shall be governed by a chairman, and a vice-chairman, who shall be elected by the members of the Parking Advisory Committee. The secretary of the Parking Advisory Committee shall be the president of the Mount Air Merchants' Association during such person's tenure of office.
- (d) *Meetings generally, quorum:* The Parking Advisory Committee normally should hold at least one meeting monthly and all of its meetings shall be open to the public. A majority of the members of the Parking Advisory Committee shall constitute a quorum. A quorum must be present to conduct any business. All meetings of the Parking Advisory Committee shall be held in the City Hall.
- (e) *General powers and duties:* It shall be the function and duty of the Parking Advisory Committee to:
  - (1) Consider off-street parking problems within the municipal service district of the City;
  - (2) To advise and make recommendations to the Board of Commissioners with respect to the acquisition of property for off-street parking purposes, by lease or purchase;
  - (3) To formulate plans to provide ample off-street parking in and for the central business district;
  - (4) To submit to the Board of Commissioners on or before May fifth of every year a proposed balanced budget for the municipal service district.
- (f) *Interpretation by Board of Commissioners:* Interpretation of City ordinances, resolutions and policies shall remain solely the responsibility of the Board of Commissioners.
- (g) *Expenses incurred in administering the municipal service district:* All expenses incurred by the Parking Advisory Committee and the City in administering the municipal service district are to be charged to the municipal service district account.
- (h) *Bylaws and permanent records:* The Parking Advisory Committee will promptly after its appointment and organization, consider and adopt bylaws to regulate the conduct of its business and a record shall be maintained of the minutes of all regular and special meetings of the committee. The secretary of the Parking Advisory Committee shall cause a copy of the minutes of each regular or special meeting to be filed with the City Clerk.

(Code 1963, § 10-68)

Sec. 15-61. - Parking prohibited in specified places—Generally.

No person shall stop, stand or park a vehicle, except when in conflict with other traffic is imminent or when so directed by a police officer or traffic-control device, in any of the following places:

- (1) On a sidewalk;
- (2) Within an intersection;
- (3) On a crosswalk;
- (4) Within 30 feet of any flashing beacon, stop sign or traffic-control signal located at the side of a street or roadway;
- (5) Alongside or opposite any street excavation or obstruction, if such stopping, standing or parking would obstruct traffic;
- (6) Upon any bridge or other elevated structure or within any underpass structure;
- (7) Within 15 feet in either direction of the entrance to a hotel, theater, hospital, sanatorium or any public building;
- (8) On the roadway side of any vehicle stopping, standing or parking at the edge or curb of a street; or
- (9) Within 15 feet of any fire plug or hydrant.

(Code 1963, § 10-69)

Sec. 15-62. - Same—Parking prohibited near underpasses, overhead bridges and grade crossings.



- (a) No person shall park any vehicle on either side of any street leading to a railroad underpass or an overhead bridge, within 50 feet in any direction of the outer edge of such underpass or overhead bridge.
- (b) No person shall park any vehicle on either side of any street leading to a grade crossing, within 50 feet of the closest rail; provided, that, where existing permanent structures are located closer than 50 feet, parking may be permitted in front of such structures, unless otherwise prohibited and if such parking does not block the view in either direction of the approach of a locomotive or train.

(Code 1963, § 10-80)

Sec. 15-63. - Same—Near intersections, etc.

It shall be unlawful for any person to cause, allow, let, permit or suffer any vehicle registered in such person's name or owned and operated by such person or in such person's possession and under such person's control to park or to be parked and remain parked within 25 feet of any intersection so marked and designated prohibiting such parking by appropriate signs or marking and painting of curbs within the corporate limits of the City.

(Code 1963, § 10-75.3)

Sec. 15-64. - Same—Within block of fire.

No person shall park any vehicle within one block of any fire occurring in the City during the time that firefighters are engaged in fighting such fire or when fire apparatus is going to answer a call to such fire. Any vehicle so parked prior to such fire shall be removed immediately from the area within a block thereof, upon the sounding of the fire alarm.

(Code 1963, § 10-81)

**Cross reference—** Driving near fires, § 15-46; parking so as to interfere with emergency vehicles, § 15-68.

**State Law reference—** Parking within one block of fire apparatus prohibited, G.S. § 20-157(b).

Sec. 15-65. - Same—In certain alleys and access ways.

The Fire Chief or the Chief's designated representative shall inspect all alleys and other access ways in the vicinity of structures in the City and the Fire Chief, as authorized from time to time by the Board of Commissioners shall designate those alleys or access ways which such officer feels should be kept open at all times for fire safety reasons and in which the parking of vehicles should be prohibited. Appropriate signs or other markings shall be erected in alleys or access ways so designated and thereafter it shall be unlawful for any person to park any vehicle in such an alley or access way.

(Code 1963, § 10-82)

Sec. 15-66. - Parking prohibited for certain purposes.

No person shall stop, stand or park a vehicle upon any street for the principal purpose of:

- (1) Advertising;
- (2) Displaying it for sale;
- (3) Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency;
- (4) Storage thereof by garages, dealers or other persons;
- (5) Storage of any detached trailer or van, when the towing unit has been disconnected;
- (6) Transferring merchandise or freight from one vehicle to another;
- (7) Selling merchandise that is normally sold in stores, with the exception that this shall not apply to farmers, hucksters, or peddlers who are exempt or have a special license to sell goods door to door; or
- (8) Loading or unloading of automobiles from or upon auto transport trailer within a residential area of the City.

(Code 1963, § 10-70(a)—(g), (i))

**Cross reference—** Solicitors and canvassers, § 9-60 et seq.

Sec. 15-67. - Parking in Riverside Park.

It shall be unlawful to park a motor vehicle in Riverside Park in other than designated parking areas.

(Code 1963, § 10-17)

Sec. 15-68. - Parking so as to interfere with emergency vehicles and personnel.

It shall be unlawful for any person to park, stop or stand any vehicle in the vicinity of an authorized emergency vehicle which has stopped or parked in the performance of its official duties, so as to obstruct or impede in any manner the movement of such emergency vehicle or in any manner hinder police officers, firefighters or other authorized personnel in the performance of their duty.

(Code 1963, § 10-71)

**Cross reference—** Driving near fire, § 15-46; parking near fire, § 15-64.

Sec. 15-69. - Stopping and standing in street generally.

No vehicle shall stop in any street, except for the purpose of parking as prescribed in this chapter and except where required by some traffic-control device, the direction of a police officer or some provision of this chapter or by an emergency. No vehicle shall stop or stand in any street so as to obstruct any footway, pedestrian aisle, safety zone, crossing or street intersection or traffic, if it can be avoided.

(Code 1963, § 10-72)

Sec. 15-70. - Parking of junked vehicle.

No junked or inoperative vehicle, licensed or unlicensed, shall be permitted to park on any City street for more than 72 hours where no restrictions are posted.

(Code 1963, § 10-70(h))

**Cross reference—** Junked, abandoned and nuisance vehicles, § 27-31 et seq.

Sec. 15-71. - Designation and marking of parking spaces and areas where parking is prohibited or limited generally.

- (a) The Chief of Police is hereby authorized to cause parking spaces to be designated, maintained and marked off in and on such parts of the streets of the City as may be authorized by the Board of Commissioners from time to time and is also authorized to cause zones or areas of such streets or parts thereof in which vehicles are prohibited from parking to be designated, maintained and marked off as may be authorized by the Board of Commissioners from time to time. The Chief of Police is further authorized to cause time limit parking areas to be designated, maintained and marked off in and on such parts of City streets as may be authorized by the Board of Commissioners from time to time. All spaces for parking vehicles shall be laid out either parallel with the street or at an angle of approximately 45 degrees, and shall be designated by painted lines showing clearly the manner in which a vehicle is to be parked. The fact that a parking space, a prohibited parking area or a time parking area is designated by lines or markings painted on the surface of the street or by clearly visible signs indicating the area affected respectively shall be prima facie evidence that the Chief of Police was authorized by the Board of Commissioners to designate the same at the place it is located and that it was determined by the Board of Commissioners that the same should be designated according to the markings or signs, as the case may be, as they then exist.
- (b) Areas designated as time limit parking areas shall be designated with clearly distinguishable markings or signs at both ends of the time limit area and at reasonable intervals between the beginning and ending of such time limit area, indicating the time allowed for parking in such area.
- (c) Any time limit on parking established under this section shall apply on all days other than Sundays and holidays, and shall be effective from 7:00 a.m. until 6:00 p.m. unless otherwise designated at the area by sign or markings indicating different hours during which time limit parking is effective.

(Code 1963, § 10-75)

Sec. 15-72. - Parking time limited to two hours in designated places.

When signs are placed, erected or installed in each block giving notice thereof, no person shall park a vehicle for longer than two hours at any time between the hours of 7:00 a.m. and 6:00 p.m. (unless otherwise designated), except Sundays and public holidays, and the changing of the position of a vehicle from one point directly to another point within the same block shall be deemed one continuous parking. This section shall become effective as of the time that such areas are designated by the Board of Commissioners and clearly visible signs are posted.

(Code 1963, § 10-75.1)

Sec. 15-73. - Designation of parking in no parking or loading zones.

Areas designated by yellow curbing shall be no parking zones. Loading zones shall be designated by appropriate signs or by the legend "Loading zone" within the restricted parking area. Parking in a no parking zone so designated or in a loading zone for other than such restricted purpose shall be a violation of this section.

(Code 1963, § 10-75.2)

**Cross reference—** See also §§ 15-78 and 15-79 for provisions relating to loading zones.

Sec. 15-74. - Parking in prohibited areas; overtime parking.

It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in such person's name or owned or operated by such person or in such person's possession or under such person's control to be or remain in any prohibited parking area designated according to the provisions of section 15-71, or in a time limit parking area for a longer period of time than that designated by the markings on the street or by clearly visible signs.

(Code 1963, § 10-76)

Sec. 15-75. - Manner of parking generally.

All vehicles shall park parallel to the curb and not more than 12 inches therefrom, except on those streets, or portions thereof, which have been marked for angle parking in accord with section 15-71; in which event vehicles shall be parked at an angle to the curb. On any street which is marked off with lines indicating the parking spaces for vehicles, the same shall be parked between such lines.

(Code 1963, § 10-77)

Sec. 15-76. - Parking on left.

No vehicle shall be parked with its left side to the curb on any street in the City, except on a one-way street.

(Code 1963, § 10-78)

Sec. 15-77. - Backing to curb.

In no case shall a vehicle remain backed up to the curb, except when actually loading or unloading.

(Code 1963, § 10-79)

Sec. 15-78. - Loading zones—Designation.

The Chief of Police, as authorized from time to time by the Board of Commissioners, shall designate, by appropriate signs or markings, passenger and freight curb loading zones for the use of vehicles carrying passengers or freight in loading or unloading. The fact that such a zone is so designated by signs or markings shall be prima facie evidence that the designation was authorized by the Board of Commissioners.

(Code 1963, § 10-83)

**Cross reference—** Manner of designating loading zones, § 15-71.

Sec. 15-79. - Same—Use restricted.

- (a) No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger loading zone during the hours when the regulations applicable to such passenger zone are effective, and then only for a period not to exceed three minutes.
- (b) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight loading zone during hours when the provisions applicable to loading zones are in effect. In no case shall the stop for loading and unloading of materials exceed 30 minutes, except on authority of a police officer.

(Code 1963, § 10-84)

Sec. 15-80. - Designation and use of taxicab stands.

- (a) The Chief of Police, as authorized from time to time by the Board of Commissioners, shall designate, by appropriate signs or markings, street parking spaces to be used as taxicab stands. The fact that such a space is so designated by signs or markings shall be prima facie evidence that the designation was authorized by the Board of Commissioners.
- (b) It shall be unlawful for any person to park, stop or stand any vehicle in any space designated under this section, except a taxicab operating under the provisions of Chapter 16 of this Code.

(Code 1963, § 10-85)

**Cross reference—** Taxicabs generally, § 16-20 et seq.

Sec. 15-81. - Moving vehicle from parked position.

The driver of a vehicle who desires to move from a parked position shall move such vehicle out in the direction headed or if parked at an angle with the curb, shall back out at that angle until the vehicle has cleared the other vehicles and shall then proceed in the direction in which the vehicle is most nearly headed.

(Code 1963, § 10-86)

Sec. 15-82. - Impoundment of illegally parked vehicles.

The Chief of Police or any police officer of the City is hereby authorized to take up or cause to be taken up or removed to a place designated by the City Manager, any vehicle parked in violation of any of the provisions of this chapter or other parking regulations of the City, and is authorized and empowered to keep same in such place so designated by the City Manager until all fines and charges assessed for moving and storage against the owner and the vehicle have been paid or satisfactory bond arranged, or until other lawful disposition thereof.

(Code 1963, § 10-87)